

IN THE HIGH COURT OF JURICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. OF 2020

DISTRICT: BOMBAY

In the matter of Article 226 ,227 of the
Constitution of India

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In the matter of Article 14,19 (1)G and
Article 21 of the Constitution of India.

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In the matter of Advocates Act, 1961

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In the matter of Bar Council of India

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In the matter of Bar Council of Maharashtra

& Goa.

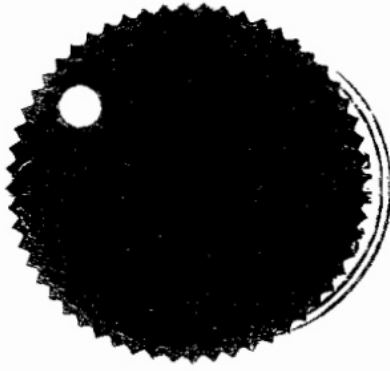


Ms. Aarti Suvarna)

Occu: Advocate, Age : 36 years,)

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Mumbai - 400 001.)
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)

.... Petitioner

V/S

1. The Registrar, General Judicial,)
 Bombay High Court,)
 Dr.DadabhaiNaroroji Road,)
 Fort, Mumbai - 400 032.)
2. Bar Council of Maharashtra & Goa)
 Bombay High Court,)
 PWD Building)
 Dr. Dadabhai Naroroji Road,)
 Fort, Mumbai - 400 032.)
3. Bar Council of India)
 21, Rouse Avenue Institutional Area.)
 Near Bal Bhawan.)
 New Delhi - 110 002)
4. Ministry of Law & Judiciary,)
 State of Maharashtra,)
 Nariman Point,)
 Mumbai- 400 020)





5. Union of India)
 Through Ministry of Law & Justice)
 4th Floor, A Wing, Shahstri Bhawan)
 New Delhi – 110 001.).... Respondents

TO
 THE HON'BLE THE CHIEF JUSTICE AND
 THE HON'BLE PUISNE JUDGES OF
 THE HON'BLE HIGH COURT AT BOMBAY



HUMBLE PETITION OF THE PETITIONER
 ABOVENAMED UNDER ARTICLE 226 AND
 227 OF THE CONSTITUTION OF INDIA:

MOST RESPECTFULLY SHEWETH:

1. The Particulars of the cause of action causing the instant PIL.

The present Petition is being filed by the Petitioner under Article 226 of the Constitution of India for commencing the Trial of Criminal matters pending for more than ten years wherein the Accused are lingering in custody.

The Petitioner states that due to Covid-19 pandemic and National Lockdown imposed by the Government of India since 24th March, 2020, the working of the Courts have been grossly impacted and hence the citizens are having limited access for the justice. Needless the Courts are functioning with limited strength on Video Conferencing mode since the lockdown has been imposed. Never the less from 4th June, 2020 the Government of India as well as the respective State Governments began unlocking process eventually leading to the commencement of Government Private Offices with limited strength and with passing of every month stringent conditions under the Lockdown has been

VERNMENT OF MAHARASHTRA

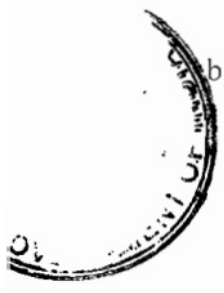
eased out. Consequent thereto now the Government and Private offices are working with 50% and 30% strength respectively and even the Malls, Hotels, Restaurants, Gymnasiums, public gatherings with 100 people has been allowed. Apart from above UGC /NEET/JEE /Staff selection Board Exams have been allowed to be conducted with proper Standing Operation Procedure (SOP) in place.

During the lockdown as well as while un lock process is under implementations time to time all most all the courts across India has conducted hearing of the urgent matters via Video Conferencing mode, as on date, this Hon'ble Court as well as the District Courts have started limited physical hearing of the urgent cases in addition to the Court Hearings via Video Conferencing mode. The petitioner shall crave leave to refer to and rely upon the necessary Lockdown and Unlock down guidelines issued by the Government of India and State of Maharashtra from time to time. Petitioner, therefore is of the view that the Criminal Trial of the Custody matters which are pending for more than ten years need to commence in order to give speedy justice by starting the limited physical hearing for conducting trail of criminal cases (with approximately 30% to 50% strength of the man power) by implementing Standard Operating Procedure made applicable while conducting the Trial. Even otherwise State shall secure that operation of the legal system promotes justice and it can be achieved unless courts functioning in the current pandemics situations are improved to deliver speedy justice .Hence, this PIL for seeking the appropriate direction to

- a) To issue a writ of Mandamus or any other writ, order and directions to commence the criminal trial of custody cases which are pending for more than 10 years in various courts across state with the implementation of



Standard Operating Procedure till the COVID 19 situation is improved and total lockdown is lifted.



b) To, issue a writ of Mandamus or any other writ, order and directions to Respondent No 1, 2 and 4 to provide all necessary facility and infrastructure to the courts, so as to enable it to conduct the criminal trial of custody cases which are pending for more than 10 years.

c) To frame guidelines or standard Operating Procedure (SOP's) to be enforced for the commencement of the criminal trial of custody cases which are pending for more than 10 years

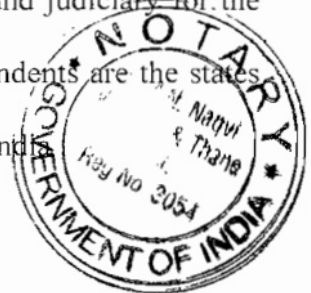
2. The Particulars of the Petitioner.

The Petitioner is a practicing Lawyer having his address as mentioned in the captioned Title being the professional lawyer, she/he has bonafied intention and belief that the citizens are entitled for the speedy justice and hence even during this pandemic situation a mechanism can be evolved wherein the Criminal Trial of the Custody matters which are pending for more than ten years need to commence in order to give speedy justice by starting the limited physical hearing (with approximately 30% to 50% strength of the man power) with Standard Operating Procedure made applicable while conducting the Trial.

3. The Particulars of the Respondents.

The Respondent No 1 is the registrar judicial of the Hon'ble Mumbai High Court, and the Hon'ble High Court Mumbai has a power of superintendence over all the courts across the state. Respondent No 2 and 3 are the State bar council and Bar council of India Respectively constituted under the Advocate's act, Respondent No 4 and 5 are the law ministry of law and judiciary for the state and Government of India respectively .All the respondents are the states within the meaning of the article 12 of the Constitution Of India

4. Facts in Brief constituting the cause:



Corona virus (COVID-19) has been a global crisis since the beginning of year 2020 virtually impacting life and liberty of the people's at large, it has serious impact on the economy, trade, commerce, and functioning of the governments, public and private institutions. With the imposition of the national lockdown on 24th March several non essential entities, works, were suspended.

The working of the Courts has been grossly impacted and hence the citizens are having limited access for the justice. Needless the Courts are functioning with limited strength on Video Conferencing mode since the lockdown has been imposed. Never the less from 4th June, 2020 the Government of India as well as the respective State Governments began unlocking process eventually leading to the commencement of Government Private Offices with limited strength and with passing of every month stringent conditions under the Lockdown has been eased out. Consequent thereto now the Government and Private offices are working with 50% and 30% strength respectively and even the Malls, Hotels, Restaurants, Gymnasiums, public gatherings with 100 people has been allowed. Apart from above UGC /NEET/JEE /Staff selection Board Exams have been allowed to be conducted with proper Standing Operation Procedure (SOP) in place.

During the lockdown as well as while un lock process is under implementations time to time all most all the courts across India has conducted hearing of the urgent matters via Video Conferencing mode, as on date, this Hon'ble Court as

as the District Courts have started limited physical hearing of the urgent cases in addition to the Court Hearings via Video Conferencing mode. The Petitioner shall crave leave to refer to and rely upon the necessary Lockdown

and Unlock down guidelines issued by the Government of India and State of Maharashtra from time to time. Petitioner, therefore is of the view that the Criminal Trial of the Custody matters which are pending for more than ten





years need to commence in order to give speedy justice by starting the limited physical hearing for conducting trial of criminal cases (with approximately 30% to 50% strength of the man power) by implementing Standard Operating Procedure made applicable while conducting the Trial.

Petitioner states that even otherwise access to the court is fundamental right and State shall secure that operation of the legal system promotes justice and it can be achieved unless courts functioning in the current pandemics situations are improved to deliver speedy justice

Suggested Standard Operating Procedure:

- a) Trial of Criminal matters which are pending for more than 10years where in the accused are lingering in custody be identified and enlisted.
- b) Only five matters in the morning sessions from 11am to 2 Pm be listed for trial
- c) Custody Accused to appear via Video Conferencing Mode from the Jail premises
- d) Only Arguing counsel and One Advocate on Record along with Public prosecutor be permitted to enter the court premises
- e) Bar and Bench be segregated with the glass shield
- f) Accused on Bail be exempted from personal appearance and they can be allowed to join trial via video conferencing mode
- g) If the identification of accused is required by witness same can be done through video conferencing facility
- h) As far as possible witness be examined via Video conferencing
- i) In select case where ever courts is of the view that witness be physically present for examination then witness shall be made to enter in glass shield witness box





Designated court premises be allocated for the witness and/or accused who are physically present

- k) For audible hearing , speakers to be switched on in the court room
- l) Thermal and oxygen checking at the entrance of the court.
- m) Social distancing norms be strictly adhered.
- n) Wearing of mask and hand glows be made compulsory
- o) Sanitization liquid be kept at the entrance of the court
- p) Proper sanitization before and after court works
- q) Supervision of sanitization by the respective committee formed by the respective bar associations and courts
- r) Mechanism ,cost of the Sanitization to be decided by the committee formed by the respective bar associations in concurrence with the committee of judges

5. Grounds

- a) Because complete and full access to the court is fundamental right
- b) Because if the criminal trial in the custody cases are not commenced ,it will be serious violation of human right ,
- c) Because state shall secure that operation of the legal system promotes justice and it can be achieved unless courts functioning in the current pandemics situations are improved to deliver speedy justice
- d) Because with the ease of lockdown by implementing time to time unlock rules, government of India as well as state governments have started functioning with 50 to 30 % strength, with SOP's in place
- e) Because even the Malls, Hotels, Restaurants, Gymnasiums, public gatherings with 100 people has been allowed. Apart from above UGC /NEET/JEE/Staff selection Board Exams have been allowed to be conducted with proper Standing Operation Procedure (SOP) in place.





Several courts including this Hon'ble courts has started physical hearing in limited numbers of courts for civil as well as criminal case of urgent matters only , hence by not commencing the trail of the criminal cases which are pending for several years will only delay the conclusion of trail due to which under trails will be kept behind the custody without any conclusion for years there by denying them the justice.


- g) Because courts cannot be kept in partial suspensions which will not only cause hindrance to justice delivery system but also seriously impact the life of several other people associated with the court functioning including lawyers as continuous suspension of court work will only prevent them from earning their livelihood.
- h) Because more the delay in justice delivery system it will be violation of life and liberty of the under trials
- i) Because Risk of COVID -19 is continuous risk in the current situation for which steps to be taken to minimize the risk for effective justice delivery system rather than shutting the doors of the justice even if it means partial shutting the doors for the citizen of this country .
- j) Because opening the doors of the justice in full strength is need of time
- k) Because principle of natural justice, equity and fair play requires that that the trial of the criminal matters in custody cases be started to deliver speedy justice to the under trails lingering behind bar for several years

6. Source of Information relied upon.

The Petitioner declares that the facts pleaded in the Petition are gathered from her own research, local source, internet and other secondary sources all of which is in the public domain and it is the pleasure of the Hon'ble court to take a judicial notice thereof.

7. Nature and Extent of Injury caused/apprehended





If the Criminal Trials of the Custody matters which are pending for more than ten years are not commenced it will deny the speedy justice to large number of people languishing in jails waiting for the trial which will be against the basic principal of justice delivery system and also a serious violation of human rights.

8. Any representation etc. made

No other representation has been made to any other authority, public, court in relation to the subject matter of the present Public Interest Litigation.

9. Delay if any in filing the Petition and explanation thereof.

There is no delay in filing the present petition under Article 226 of the Constitution of India.

10. Documents relied upon.

The petitioners have relied upon the following documents.

- a) National Lock down and unlock rules implemented from time to time
- b) Rules and procedure adopted by the several courts including this court during the lockdown and unlock periods for the functioning of the courts.
- c) Data of the criminal cases pending for more than 10 years
- d) Data of the under trails who are lingering behind bar due to inconclusive trials
- e) Any other government / courts notifications in support of the petitioner's cause

11. The Petitioners have filed the present petition before this Hon'ble Court under Article 226, 227 of the Constitution of India and therefore the Petition can be heard and disposed of by this Hon'ble Court being within the territorial limits of this Hon'ble Court. The cause of action to file the present petition arose within the jurisdiction of this Hon'ble Court. Thus, this Hon'ble Court has jurisdiction to try and dispose off this Petition in accordance with the law.



12. The Petitioners state that they have not filed nay other petition in respect of the reliefs as prayed in the instant petition in any other court of law including the Hon'ble Supreme Court touching the subject matter of the PIL except the present PIL.

13. The Petitioner further submits that in the facts of the case the Petitioner have no other remedy available save and except by way of approaching this Hon'ble Court under Article 226 of the Constitution of India.

14. Caveat.

That no notice has been received of lodging Caveat by the opposite party.

15. The Petitioner craves leave to add, amend, delete or modify any other grounds submissions, pleadings as and when required.

16. Prayer.

The Petitioner therefore respectfully prays as under:-

- d) To issue a writ of Mandamus or any other writ, order and directions to commence the criminal trial of custody cases which are pending for more than 10 years in various courts across state with the implementation of Standard Operating Procedure till the COVID 19 situation is improved and total lockdown is lifted .
- e) To, issue a writ of Mandamus or any other writ, order and directions to Respondent No 1, 2 and 4 to provide all necessary facility and infrastructure to the courts , so as to enable it to conduct the criminal trial of custody cases which are pending for more than 10 years.
- f) To frame guidelines or standard Operating Procedure (SOP's) to be enforced for the commencement of the criminal trial of custody cases which are pending for more than 10 years





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AND YOUR APPLICANT/ INTERVENOR, AS IN DUTY BOUND
SHALL EVERY PRAY

Date: 08.09.2020

Drawn and filed by

Place: Mumbai

Omprakash Parihar

Advocate for the petitioner



IN THE HIGH COURT OF JURICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. OF 2020

Ms. Aarti Suvarna Petitioner
V/S

The Registrar, General Judicial, Bombay High Court & Ors. Respondents

MEMORANDUM OF REGISTERED ADDRESS

Ms. Aarti Suvarna
C/o Mr. Omprakash Parihar,
Office No.11 Oriental Business Center,
14th Rajabhadur Mansion,
Ambalal Doshi Marg Fort -400023
MAH/1757/1999, Advocate Code: I 7061
Cell: 9821238126/9769139664
Email: omisingh09@gmail.com

Advocate for the Petitioner





(14)

I am not a member of the Advocates' Welfare Fund. Hence, no fixed court fees is required.

OMPRAKASH PARIHAR
ADVOCATE FOR THE PETITIONER

IN THE HIGH COURT OF JURICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

PUBLIC INTEREST LITIGATION NO. OF 2020

Ms. Aarti Suvarna Petitioner

V/S

The Registrar, General Judicial, Bombay High Court & Ors. Respondents

VAKALATNAMA

To,

The Registrar,
Appellate Side,
Bombay.

Sir,

I, Ms. Aarti Suvarna, the Petitioner above-named, do hereby appoint Mr. Omprakash Parihar, Advocate, to act, appear and plead on my behalf in the above matter.

In witness whereof I have set and subscribed my hand to this writing this 8th day of September, 2020 at Mumbai.

Accepted :

Mr. Omprakash Parihar (Code: I 7061)

Advocates for the Petitioner

MAH/1757/1999 /CODE: 17061

Address:


Office No. 11 Oriental Business Center
14th Rajabhadur Mansion Ambalal Doshi Marg
Fort Mumbai-400023
Cell: 9821238126/9769139664
Email: omisingh09@gmail.com

Ms. Aarti Suvarna
(Petitioner)



CHALLAN
MTR Form Number-6



GRN MH004209062 202021M		BARCODE 		Date 10/09/2020-12.05.17	Form ID PIL
Department High Court			Payer Details		
Type of Payment Judicial Stamps Court Fees Collected In Stamp Duty			TAX ID (Case No.)		
			PAN No.(If Applicable)		
Office Name BOMBAY HC APPELLATE CRIMINAL			Full Name		Aarti Suvarna
Location MUMBAI			Flat/Block No.		
Year 2020-2021 One Time			Premises/Building		
Account Head Details		Amount In Rs.	Road/Street		
0030034801	Court Fees Stamp Duty	200.00	Area/Locality		
			Town/City/District		
			PIN		
			Remarks (Party Details)		
			Aarti Suvrna vs The registrar General Of Bombay High Court and ors		
			Amount In		Two Hundred Rupees Only
Total		200.00	Words		
Payment Details STATE BANK OF INDIA			FOR USE IN RECEIVING BANK		
Cheque-DD Details			Bank CIN	Ref. No.	CPAAHHOIX3
Cheque/DD No			Bank Date	RBI Date	Not Verified with RBI
Name of Bank			Bank-Branch		STATE BANK OF INDIA
Name of Branch			Scroll No. , Date		

Aarti Suvarna
10 SEP 2020

Department ID :

Mobile No. : 9819816284

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IN THE HIGH COURT OF JURICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
PUBLIC INTEREST LITIGATION NO. OF 2020

Ms. Aarti Suvarna Petitioner

V/S

The Registrar, General Judicial,
Bombay High Court & Ors. Respondents

PUBLIC INTEREST LITIGATION

Dated this 8th day of September, 2020



Mr. Omprakash Parihar

Advocates for the Petitioner

MAH/1757/1999 (Code: I 7061)

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14th Rajabhadur Mansion,

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