

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

Writ Petition (Civil) No 869 of 2020

Ashwini Kumar Upadhyay

... Petitioner

Versus

Union of India & Ors

... Respondents

WITH

**Writ Petition (Civil) Nos 1000, 1108 & 1144/2020 and
905, 480, 474, 707, 919, and 710/2021**

O R D E R

- 1 This batch of writ petitions can, for convenience of reference be segregated into four categories based on the reliefs which have been sought :

- 1 WP(C) 869/2020 : Ashwini Upadhyay v. Union of India
- 2 WP(C) 474/2021 : Doris Martin v. Union of India
3. WP(C) 1000/2020 : Ashwini Upadhyay v. Union of India
4. WP(C) 710/2021 : Medhavi Mishra v. Union of India
- 5 WP(C) 919/2021 : Bhartiya Stree Shakti v. Union of India
- 6 WP(C) 1108/2020 : Ashwini Upadhyay v. Union of India
- 7 WP(C) 707/2021 : Lubna Qureshi v. Union of India
- 8 WP(C) 1144/2020 : Ashwini Upadhyay v. Union of India
- 9 WP(C) 480/2021 : Shazia Ilmi v. Union of India
- 10 WP(C) 905/2021 : Bhartiya Stree Shakti v. Union of India

- 2 In substance, the petitioner seeks the enactment of “gender neutral and religion neutral” legislation in matters governing (i) divorce; (ii) adoption and guardianship; (iii) succession and inheritance; and (iv) maintenance.

- 3 We have heard Mr. Ashwini Kumar Upadhyay, petitioner appearing in-person, Mr Tushar Mehta, Solicitor General of India appearing on behalf of the Union of India and Mr Huzefa A Ahmadi, senior counsel appearing on behalf of the intervener in IA No 44667 of 2021 in Writ Petition (Civil) No 869 of 2020.
- 4 The Solicitor General of India states that the Government of India as a matter of policy supports the enactment of uniform legislation. However, insofar as this batch of matters is concerned, it is his submission that such an intervention can only be through the legislative process.
- 5 On a considered view of the pleadings and the submissions, we are not inclined to entertain the petitions under Article 32 of the Constitution. The grant of relief in these proceedings would necessitate a direction for the enactment of law, a gender neutral and religion neutral legislation, as the petitioner has described it. Enactment of legislation lies exclusively within the domain of the legislature. It is a well settled position that a mandamus cannot be issued to the legislature to enact law.
- 6 As regards the prayer for a direction to the Law Commission to prepare a report, we see no reason to entertain the request since ultimately it is in aid of the enactment of legislation which falls in the legislative domain.
- 7 Hence, we are not inclined to entertain the Writ Petitions under Article 32 of the Constitution which shall accordingly stand disposed of.
- 8 Pending applications, if any, stand disposed of.

**Writ Petition (Civil) Nos 928, 348, 603, 762, 878, 954, 995 of 2022 and
Writ Petition (Civil) No 351 of 2023**

9 De-tag and list on 28 April 2023.

.....CJI.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Pamidighantam Sri Narasimha]

.....J.
[J B Pardiwala]

**New Delhi;
March 29, 2023**
GKA

ITEM NO.30+44

COURT NO.1

SECTION PIL-W

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Writ Petition(s)(Civil) No(s). 869/2020

ASHWINI KUMAR UPADHYAY

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

WITH

W.P.(C) No. 928/2022 (PIL-W)
 (FOR ADMISSION)

W.P.(C) No. 905/2021 (PIL-W)
 (FOR ADMISSION)

W.P.(C) No. 480/2021 (PIL-W)
 (FOR ADMISSION)

W.P.(C) No. 474/2021 (PIL-W)

W.P.(C) No. 707/2021 (PIL-W)
 (FOR ADMISSION)

W.P.(C) No. 1000/2020 (PIL-W)
 ([Along with Record of W. P (c) No 598 of 2019])

W.P.(C) No. 919/2021 (PIL-W)

W.P.(C) No. 1108/2020 (PIL-W)

W.P.(C) No. 1144/2020 (PIL-W)

W.P.(C) No. 348/2022 (PIL-W)
 (IA No. 122764/2022 - INTERVENTION APPLICATION IA No. 120064/2022 -
 INTERVENTION APPLICATION IA No. 119161/2022 - INTERVENTION
 APPLICATION)

W.P.(C) No. 603/2022 (PIL-W)

W.P.(C) No. 762/2022 (PIL-W)
(FOR ADMISSION)

W.P.(C) No. 878/2022 (PIL-W)
(FOR ADMISSION)

W.P.(C) No. 954/2022 (PIL-W)
(FOR ADMISSION)

W.P.(C) No. 995/2022 (PIL-W)
(FOR ADMISSION and IA No.171736/2022-EXEMPTION FROM FILING O.T.)

W.P.(C) No. 710/2021 (PIL-W)

W.P.(C) No. 351/2023 (PIL-W)
(FOR ADMISSION)

Date : 29-03-2023 This petition was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s) Mr. Sandeep Singh, AOR

Mr. Aditya Sharma, AOR
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Mr. Tarun Gulia, Adv.
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Mr. Venkata Krishna Kunduru, Adv.
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Mr. Gaurav Yadav, Adv.
Mr. Amit Kumar, Adv.
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Mrinal Gopal Elker, AOR
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Mr. Praneet Pranav, Adv.
Mr. Saurabh Singh, Adv.
Ms. Aarushi Gupta, Adv.

Dr. Menaka Guruswamy, Sr. Adv.
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Ms. Mukta Halbe, Adv.
Mr. Harshit Goel, Adv.

Ms. Mahalakshmi Pavani, Sr. Adv.
Mr. Neeleshwar Pavani, Adv.
Ms. Divya Jyoti Singh, AOR
Mr. Randhir Lal Sharma, Adv.
Ms. Prerna Singh, Adv.
Ms. S Selvakumari, Adv.
Mr. Shaurya Mishra, Adv.
Ms. Pratibha Jha, Adv.
Mr. Santosh Kumar, Adv.
Mr. Nachiketa Joshi, Adv.
Ms. Rashmi Singhanian, Adv.

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Ms. Ankita Choudhary, Adv.

Ms. Sneha Kalita, AOR

For Respondent(s) Mr. Tushar Mehta, Solicitor General
Mr. K M Nataraj, A.S.G.
Ms. Shraddha Deshmukh, Adv.
Mr. Rajan Kumar Chourasia, Adv. 351/2023
Mr. Shailesh Madiyal, Adv.
Mr. Mayank Pandey, Adv.
Mr. Vivek Narayan Sharma, Adv.
Mr. Arvind Kumar Sharma, AOR

Ms. Vanshaja Shukla, AOR

Mr. Farrukh Rasheed, AOR
Mr. T.W. Pathan, Adv.
Mr. Ashish Sharma, Adv.
Mr. Zahid Hussain, Adv.

Ms. Pallavi Sharma, AOR

Mr. Devendra Singh, AOR
Mrs. Mahima Bhardwaj, Adv.
Mr. Nikhil Jaiswal, Adv.
Mr. Rajeev Kumar Jhai, Adv.
Mr. Ram Kumar, Adv.

Mr. Fuzail Ahmad Ayyubi, AOR
Mr. Ibad Mushtaq, Adv.
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Ms. Nabeela Jamil, Adv.
Mr. Niaz A Farooqui, Adv.

Mr. Atulesh Kumar, AOR

Ms. Bharti Tyagi, AOR
Mr. Moksh Pasrija, Adv.
Ms. Bhakti Pasrija, Adv.

Mr. Aditya Sharma, AOR
Mr. Parth Kaushik, Adv.

Mr. Talha Abdul Rahman, AOR

UPON hearing the counsel the Court made the following
O R D E R

Writ Petition (Civil) Nos 869, 1000, 1108 & 1144/2020 and 905, 480, 474, 707, 919, and 710/2021

1 The Writ Petitions stand disposed of in terms of the signed order.

2 Pending applications, if any, stand disposed of.

Writ Petition (Civil) Nos 928, 348, 603, 762, 878, 954, 995 of 2022 and Writ Petition (Civil) No 351 of 2023

3 De-tag and list on 28 April 2023.

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR