

**IN THE SUPREME COURT OF INDIA**

**[EXTRAORDINARY WRIT JURISDICTION]**

**WRIT PETITION (Civil) No. \_\_\_\_\_ OF 2021**

**PUBLIC INTEREST LITIGATION**

**(PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT IN THE NATURE OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT TO QUASH THE EXTENSION OF TENURE OF THE RESPONDENT NO. 4 VIDE ORDINANCE NO. CG-DL-E-14112021-231129 PROMULGATED ON 14.11.2021.)**

**IN THE MATTER OF:-**

Chaman Lal & Ors.

...Petitioners

Versus

Union of India & Ors.

...Respondents

**WITH**

**IA NO. \_\_\_\_\_ 2021: Application for Stay**

**PAPER-BOOK**

**(Kindly see inside for index)**

**ADVOCATE FOR PETITIONERS: AAKARSH KAMRA**

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SECTION \_\_\_\_\_

The case pertains to (Please tick/check the correct box):

- Central Act: (Title) Constitution of India
- Section: Article 32
- Central Rule: (Title) NA
- Rule No(s) NA
- State Act: (Title) NA
- Section: NA
- State Rule: (Title) NA
- Rule No(s) NA
- Impugned Interim Order: (Date) NA
- Impugned Final Order/Decree: (Date) NA
- High Court: (Name) NA
- Names of Judges: NA
- Tribunal/Authority: (Name) NA

1. Nature of matter:  Civil  Criminal

2. (a) Petitioner/appellant No.1: Chaman Lal
- (b) e-mail ID: NA
- (c) Mobile phone number: NA

: 2 :

A1

3. (a) Respondent No.1: UNION OF INDIA & ORS.  
 (b) e-mail ID: NA  
 (c) Mobile phone number: NA
4. (a) Main category classification: 08  
 (b) Sub classification: 0812
5. Not to be listed before: NA
6. (a) **Similar disposed of matter with citation, if any, & case details:** No similar matter has been disposed of.  
 (b) **Similar pending matter with case details:** Randeep Singh Surjewala v. Union of India  
 D. No. 28226 of 2021
7. Criminal Matters: NA  
 (a) Whether accused/convict has surrendered:  Yes  No.  
 (b) FIR No. \_\_\_\_\_ Date: \_\_\_\_\_  
 (c) Police Station: \_\_\_\_\_  
 (d) Sentence Awarded: \_\_\_\_\_ NA  
 (e) Period of sentence undergone including period of detention/custody undergone: \_\_\_\_\_
8. Land Acquisition Matters: NA  
 (a) Date of Section 4 notification: NA  
 (b) Date of Section 6 notification: NA  
 (c) Date of Section 17 notification: NA
9. Tax Matters: State the tax effect: NA
10. Special Category (first petitioner/appellant only): NA  
 Senior Citizen > 65 years  SC/ST  Woman/child  Disabled  
 Legal aid case  In custody NA
11. Vehicle Number (in case of Motor Accident Claim matters): NA

Date: 18.11.2021

  
 AOR for petitioner(s)/appellant(s)  
 (Name) AAKARSH KAMRA

**SYNOPSIS**

The Petitioners are filing this petition under Article 32 of the Constitution of India seeking quashing of the wrong, malafide and illegal extension of tenure of Director, Enforcement Directorate (ED), upto 5 years, vide Ordinance, namely THE CENTRAL VIGILANCE COMMISSION (AMENDMENT) ORDINANCE, 2021 bearing No. CG-DL-E-14112021-231129 promulgated by the President of India on 14 November 2021. Petitioner is also seeking quashment of consequential orders of extension to Respondent No. 4 and a writ of mandamus to bring the appointment procedure for the Director, Enforcement Directorate in line with that for the Director, CBI.

The said Ordinance with respect to the Director, Enforcement Directorate has made amendments by inserting a proviso to Section 25 of the CVC Act, 2003 which reads: *“Provided that the period for which the Director of Enforcement holds the office on his initial appointment may, in public interest, on the recommendation of the Committee under clause (a) and for the reasons to be recorded in writing, be extended up to one year at a time:*

*Provided further that no such extension shall be granted after the completion of a period of five years in total including the period mentioned in the initial appointment;”.*

The ordinance falls foul of the judgement passed by this Hon’ble Court in the matter of ***Common Cause Vs. Union of India***, W.P. (C) No. 1374 of 2020, wherein this Hon’ble Court had specifically directed that the tenure of the incumbent Director, ED, namely, Mr. Sanjay Kumar Mishra which is set to expire in November 2021 cannot be extended further. The judgment of this Hon’ble Court in the abovesaid case was clear and absolute insofar as the principle that an extension could be granted was upheld but an embargo was placed on further extension. This conclusion is based on a public interest understanding of the fact that frequent extensions created a perception, whether right or wrong, that the concerned civil servant is under pressure from the Government to secure their extension.

The extension of tenure of the Respondent No. 4 is also in blatant violation and disregard of the judgement passed by this Hon’ble Court in the matter of ***Vineet Narain and Others Vs. Union of India & Ors.*** (1998) 1 SCC 226, wherein it was held that the Respondent No. 4 should be permitted to

continue in the post for a minimum period of two years without any external influence. Further, that a minimum period of service ensures security of tenure and would reduce the chances of external influences and extraneous pressures.

It has been held by this Hon'ble Supreme Court in the case of *Centre for Public Interest Litigation & Anr. v. Union of India & Anr.* (2011) 4 SCC 1 that "hus, the institutional integrity is the primary consideration which the HPC is required to consider while making recommendation under Section 4 for appointment of Central Vigilance Commissioner. In the present case, this vital aspect has not been taken into account by the HPC while recommending the name of Shri P.J. Thomas for appointment as Central Vigilance Commissioner. We do not wish to discount personal integrity of the candidate. What we are emphasizing is that institutional integrity of an institution like CVC has got to be kept in mind while recommending the name of the candidate." As such, it is institutional integrity which ought to be the keystone of such decisions. Extensions which cannot but help be subject to the government's estimation of a person's performance can only serve to undermine institutional integrity. Repeated extensions will only open the Director to political influences and leave the institution vulnerable.

That the spirit of the aforesaid judgements with regard to sanitising Officers from external influences and extraneous pressures stands defeated by the extension of tenure of the Respondent No. 4 by the promulgation of the subject Ordinance. Healthy revolving of Officers is critical to the exercise of powers and dispensation of functions conferred on posts such as that of the Respondent No. 4 and there should be no apprehension that extension of tenure of key appointments are dependent on the will of the Government. The same is violative of Articles 14 and 21 of the Constitution of India insofar as other officers, similarly ranked, do not have this privilege and the process of criminal investigation by these two agencies is feared to be less independent and more open to political pressure on account of these changes,

Further, the order of extension that has been passed shows no satisfaction on the part of the Committee, let alone its approval, for such an extension. It shows no application of mind especially in the arena of institutional integrity. Such orders of extension ought, it is humbly submitted, to be *non-est* in law. In terms of there being no recording of the satisfaction of the Committee as envisaged even by the Ordinance under challenge, this extension cannot stand.



That the promulgation of the said ordinance a mere two weeks before Parliament is scheduled to convene raises several questions regarding the urgency that has caused the promulgation of the subject Ordinance in a manner that is blatantly alien to the envisaged constitutional machinery. In *R.K. Garg etc. v. Union of India & Ors.* 1982 (1) SCR 947, this Hon'ble Court has observed "At first blush it might appear rather unusual that the power to make laws should have been entrusted by founding fathers of the Constitution to the executive because according to the traditional outfit of a democratic political structure the legislative power must belong exclusively to the elected representatives of the people and vesting it in the executive though responsible to the Legislature would be undemocratic as it might enable the executive to abuse this power by securing the passage of an ordinary bill without risking a debate in the Legislature ..... It may be and this was pointed out forcibly by Dr. Ambedkar while replying to the Criticism against the introduction of Article 123 in the Constituent Assembly - that the legislative power conferred on the President under this Article is not a parallel power of legislation. It is power exercisable only when both Houses of Parliament are not in session and it has been conferred ex-necessitate in order to enable the executive to meet an emergent

situation. Moreover, the law made by the President by issuing an Ordinance is of strictly limited duration."

In *Madras Bar Association v. Union of India & Anr.* 2021 SCC Online SC 463 this Hon'ble Court has held as follows: "The permissibility of legislative override in this country should be in accordance with the principles laid down by this Court in the aforementioned as well as other judgments, which have been culled out as under:

- a) The effect of the judgments of the Court can be nullified by a legislative act removing the basis of the judgment. Such law can be retrospective. Retrospective amendment should be reasonable and not arbitrary and must not be violative of the fundamental rights guaranteed under the Constitution.
- b) The test for determining the validity of a validating legislation is that the judgment pointing out the defect would not have been passed, if the altered position as sought to be brought in by the validating statute existed before the Court at the time of rendering its judgment. In other words, the defect pointed out should have been cured such that the basis of the judgement pointing out the defect is removed.

c) Nullification of mandamus by an enactment would be impermissible legislative exercise [See : *S.R. Bhagwat* (supra)]. Even interim directions cannot be reversed by a legislative veto [See : *Cauvery Water Disputes Tribunal* (supra) and *Medical Council of India v. State of Kerala*<sup>52</sup>].

d) Transgression of constitutional limitations and intrusion into the judicial power by the legislature is violative of the principle of separation of powers, the rule of law and of Article 14 of the Constitution of India.”

This Hon’ble Court went on to strike down the invalid ordinance accordingly. In the instant case also, the orders of this Hon’ble Court in *Common Cause* (supra) were in the nature of mandamus and cannot be overridden.

That the promulgation of such an ordinance is a sheer abuse of power and in absolute violation of various statutory provisions applicable to such appointments and also being contrary to the Rule of Law. The Petitioner is thus constrained to seek intervention of this Hon’ble Court to quash the wrong, malafide and illegal extension of tenure of appointment to key position of the Respondent No. 4.

**LIST OF DATES & EVENTS**

<b>DATE</b>	<b>PARTICULARS</b>
18.12.1997	This Hon'ble Court in the matter of <b>Vineet Narain and Others Vs. Union of India &amp; Ors.</b> (1998) 1 SCC 226 held that the Respondent No. 4 should be permitted to continue in the post for a minimum period of two years without any external influence and further, that a minimum period of services ensures security of tenure and would reduce the chances of external influences and extraneous pressures.
22.09.2006	This Hon'ble Court passed judgement in the matter of <b>Prakash Singh &amp; Ors. vs. Union of India and Ors.,</b> (2006) 8 SCC 1, prescribing therein relevant directions for appointments to police posts in terms of the " <b>Selection and minimum tenure of DGP</b> ".
03.07.2018	This Hon'ble Court in the matter of <b>Prakash Singh &amp; Ors. vs. Union of India and Ors.,</b> (2019) 4 SCC 13, directed inter alia that the extended term beyond the date of superannuation should be a reasonable period and that the practise of some States to appoint the Director

General of Police on the last date of retirement as a consequence of which the person continues for two years after his date of superannuation will not be in conformity with the spirit of the direction.

13.03.2019 In the matter of **Prakash Singh & Ors. vs. Union of India and Ors.**, (2019) 4 SCC 1 this Hon'ble Court specifically clarified the order passed on 03.07.2018 passed in I.A. No. 25307 of 2018 in Writ Petition No. 310 of 1996 directing that for appointment to the post of Director General of Police, officers should have at least six months of service remaining prior to retirement.

08.09.2021 This Hon'ble Court held in the matter of **Common Cause Vs. Union of India & Ors.**, W.P. (C) No. 1374 of 2020, that extension of tenure granted to officers who have attained the age of superannuation should be done only in rare and exceptional cases. Further that any extension of tenure to persons holding the post of Director of Enforcement after attaining the age of superannuation should be for a short period. This Hon'ble Court specifically stated that no further

extension shall be granted to the incumbent Director of Enforcement.

- 14.11.2021 Promulgation of THE CENTRAL VIGILANCE COMMISSION (AMENDMENT) ORDINANCE, 2021, bearing No. CG-DL-E-14112021-231129, enabling the extension of tenure of Director of Enforcement Directorate (ED) upto 5 years.
- 15.11.2021 The Personnel Ministry issued an order to amend the Fundamental Rules, 1922 adding the two posts of the Director, CBI and the Director, ED to the list whose services can be extended up to two years beyond the two years fixed tenure in “public interest”.
- 17.11.2021 Mr. Sanjay Kumar Mishra, Respondent No. 4, was due for superannuation as per statutory rules and regulations.
- 17.11.2021 Office Order No. 238/2021 vide F.No. A 12026/10/2018-Ad.1 issued by the Government of India, Ministry of Finance, Department of Revenue extending the tenure of Director of Enforcement in the Enforcement Directorate for a period of one year beyond

18.11.2021 i.e. upto 18.11.2022 or until further orders  
whichever is earlier.

20.11.2021 Hence the present Writ Petition.

**IN THE HON'BLE SUPREME COURT OF INDIA  
EXTRAORDINARY WRIT JURISDICTION (CIVIL)  
PUBLIC INTEREST LITIGATION  
WRIT PETITION (CIVIL) NO. \_\_\_\_ OF 2021**

(A petition under Article 32 of the Constitution of India.)

**IN THE MATTER OF:**

**1. Chaman Lal**

...Petitioner No.1

**2. M. G. Devasahayam**

... Petitioner No.2

**3. Aditi Mehta**

...Petitioner No.3

Versus

**1. Union of India**

Ministry of Home Affairs  
Through Chief Secretary  
North Block  
New Delhi-110001

... Respondent No. 1

**2. Ministry of Law & Justice**

Through Secretary  
4<sup>th</sup> floor, A-Wing,



Shastri Bhawan  
New Delhi 110001

... Respondent No.2

**3. Department of Personnel and Training**

Principal Secretary,  
North Block, Central Secretariat  
New Delhi-110001

...Respondent No.3

**4. Directorate of Enforcement**

Through Director  
6 th Floor, Lok Nayak Bhawan,  
Khan Market  
New Delhi 110 003

... Respondent No. 4

**PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF  
INDIA FOR ISSUANCE OF A WRIT IN THE NATURE OF  
MANDAMUS OR ANY OTHER APPROPRIATE WRIT TO  
QUASH THE EXTENSION OF TENURE OF THE  
RESPONDENT NO. 4 VIDE ORDINANCE NO. CG-DL-E-  
14112021-231129 PROMULGATED ON 14.11.2021.**

To,

HON'BLE THE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUSTICES  
OF THE SUPREME COURT OF INDIA.

THE HUMBLE PETITION OF THE  
PETITIONER ABOVE NAMED:

**MOST RESPECTFULLY SHEWETH:**

1. The present petition under Article 32 of the Constitution of India is being filed by the Petitioner, who is a public spirited individual, seeking quashing of the wrong, malafide and illegal extension of tenure of the Director, ED, vide Ordinance No. CG-DL-E-14112021-231129 promulgated on 14.11.2021.
2. That the petition is not guided by self-gain or for gain of any other individual person, institution or body. There is no motive other than the larger public interest in filing this petition. Petitioner has no personal interests or individual gain, private motive or oblique reasons in filing this petition. The petition is bona fide and with the sole purpose of larger public interest and in the interest of justice as enshrined in Article 32 of the Constitution of India.
3. That the Petitioner No. 1, Shri. M. S. Ramesh Babu, Director, ED, Bangalore, CG-DL-E-14112021-231129

.....

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4. That the Petitioner No.2 i

.....

.....

5. That the Petitioner No. 3
6. That the Petitioners have not made any representation or approached any of the Respondents herein for the reliefs claimed in the present petition as this Hon'ble Court is the only appropriate forum for seeking the reliefs as prayed in the present petition.
7. That the Petitioners have no criminal, civil or revenue litigation involving them and pending against them which could have a legal nexus with the issues involved in the present public interest litigation.
8. That the source of averments made in this writ petition is based on judgments passed by the Hon'ble Supreme Court of India, personal knowledge of the petitioner, various media reports and

Ordinances published in the Gazette of India. The Petitioner is filing this petition under Article 32 of the Constitution of India.

### **FACTS OF THE CASE**

1. This Hon'ble Court in the matter of **Vineet Narain and Others Vs. Union of India & Ors.** (1998) 1 SCC 226 held that the Respondent No. 4 should be permitted to continue in the post for a minimum period of two years without any external influence and further, that a minimum period of services ensures security of tenure and would reduce the chances of external influences and extraneous pressures.
2. That this Hon'ble Court in the matter of **Common Cause Vs. Union of India & Ors.**, W.P. (C) No. 1374 of 2020, held that extension of tenure granted to officers who have attained the age of superannuation should be done only in rare and exceptional cases. Further, that any extension of tenure to persons holding the post of Director of Enforcement after attaining the age of superannuation should be for a short period. This Hon'ble Court specifically stated that no further extension shall be granted to the current Director of Enforcement, Mr. S.K. Mishra.

3. That this Hon'ble Court in the judgement dated 22 September 2006 passed in **Prakash Singh & Ors vs. Union of India and Ors**, (2006) 8 SCC 1, had issued directions to the Central Government, State Governments and Union Territories for compliance till the framing of appropriate legislations: The relevant extract of the said directions is reproduced herein below:

*“Selection and Minimum Tenure of DGP:*

*(2) The Director General of Police of the State shall be selected by the State Government from amongst the three senior-most officers of the Department who have been empanelled for promotion to that rank by the Union Public Service Commission on the basis of their length of service, very good record and range of experience for heading the police force. And, once he has been selected for the job, he should have a minimum tenure of at least two years irrespective of his date of superannuation. The DGP may, however, be relieved of his responsibilities by the State Government acting in consultation with the State Security Commission consequent upon any action taken against him under the All India Services (Discipline and Appeal) Rules or following his conviction in a court of law in a criminal offence or in a*

*case of corruption, or if he is otherwise incapacitated from discharging his duties.*

*Minimum Tenure of I.G. of Police & other officers: (3) Police Officers on operational duties in the field like the Inspector General of Police in-charge Zone, Deputy Inspector General of Police in-charge Range, Superintendent of Police in-charge district and Station House Officer in-charge of a Police Station shall also have a prescribed minimum tenure of two years unless it is found necessary to remove them prematurely following disciplinary proceedings against them or their conviction in a criminal offence or in a case of corruption or if the incumbent is otherwise incapacitated from discharging his responsibilities. This would be subject to promotion and retirement of the officer.”.*

4. That this Hon’ble Court in the matter of **Prakash Singh & Ors vs. Union of India**, (2019) 4 SCC 13, stated that, “**6.5.** *An endeavour has to be made by all concerned to see that the person who was selected and appointed as the Director General of Police continues despite his date of superannuation. However,*

*the extended term beyond the date of superannuation should be a reasonable period. We say so as it has been brought to our notice that some of the States have adopted a practise to appoint the Director General of Police on the last date of retirement as a consequence of which the person continues for two years after his date of superannuation. Such a practise will not be in conformity with the spirit of the direction.”.*

5. That this Hon’ble Court issued further clarifications to the aforesaid judgement in **Prakash Singh & Ors vs. Union of India (2019) 4 SCC 1** stating that:

*“10. We, therefore, clarify the order of this Court dated 3rd July, 2018 passed in I.A. No.25307 of 2018 in Writ Petition No.310 of 1996 to mean that recommendation for appointment to the post of Director General of Police by the Union Public Service Commission and preparation of panel should be purely on the basis of merit from officers who have a minimum residual tenure of six months i.e. officers who have at least six months of service prior to the retirement.”.*

6. That based on the principle of parity of the posts of DGP and the Director, ED the principles laid out in the Prakash Singh



judgements may be considered to be applicable to the appointments of Director, ED.

7. That the Respondent No. 4 is due for superannuation on 17.11.2021.
8. That the Ministry of Law and Justice has extended the tenure of the Director, ED vide Ordinance No. CG-DL-E-14112021-231129 promulgated on 14.11.2021. A true copy of the Ordinance No. CG-DL-E-14112021-231129 promulgated on 14.11.2021 is annexed herein as **ANNEXURE P-1**(At **Pages 22 to 23** ).
9. That Ordinance No. CG-DL-E-14112021-231129 has been promulgated on 14.11.2021, a mere two weeks before Parliament is scheduled to be in session.
10. That an Office Order No. 238/2021 dated 17.11.2021, vide F.No. A 12026/10/2018-Ad.1, has been issued by the Government of India, Ministry of Finance, Department of Revenue extending the tenure of Director of Enforcement in the Enforcement Directorate for a period of one year beyond 18.11.2021 i.e. upto 18.11.2022 or until further orders whichever is earlier. A true copy of the Office Order No. 238/2021 vide F.No. A

12026/10/2018-Ad.1 dated 17.11.2021 is annexed herein as **ANNEXURE P-2( At Pages 24 to 24 )**.

11. That key appointments such as that of the Director, ED ought to be made in compliance with various statutory provisions and in a manner that aligns to our Constitutional Machinery. In fact, as in the case of the Director, CBI the final appointment ought to be made by a Committee consisting of the Prime Minister, the Leader of Opposition in the Lok Sabha and the Hon'ble Chief Justice of India or his nominee. The Enforcement Directorate is a powerful investigative agency with a nation-wide jurisdiction just like the Central Bureau of Investigation and, as such, the same protection ought to be afforded to the Enforcement Directorate as it exists for the Central Bureau of Investigation.

12. **GROUND:**

- A. **BECAUSE** this Hon'ble Court in the matter of **Vineet Narain and Others Vs. Union of India & Ors.** (1998) 1 SCC 226 held that the Respondent No. 4 should be permitted to continue in the post for a minimum period of two years without any external influence and further, that a minimum period of services ensures security of tenure and

would reduce the chances of external influences and extraneous pressures.

- B. **BECAUSE** this Hon'ble Court held in the matter of **Common Cause Vs. Union of India & Ors.**, W.P. (C) No. 1374 of 2020, that extension of tenure granted to officers who have attained the age of superannuation should be done only in rare and exceptional cases, that any extension of tenure to persons holding the post of Director of Enforcement after attaining the age of superannuation should be for a short period and further this Hon'ble Court specifically stated that no further extension shall be granted to the current/ incumbent/ outgoing Director of Enforcement, Mr. S.K. Mishra.
- C. **BECAUSE** this Hon'ble Court has, in directing no further extension to Respondent No. 4 issued a writ of mandamus which cannot be legislatively overridden.
- D. Further, the order of extension that has been passed shows no satisfaction on the part of the Committee, let alone its approval, for such an extension. It shows no application of mind especially in the arena of institutional integrity. Such orders of extension ought, it is humbly submitted, to be *non-*

*est* in law. In terms of there being no recording of the satisfaction of the Committee as envisaged even by the Ordinance under challenge, this extension cannot stand.

- E. **BECAUSE** it is healthy to have a periodic rotation of officers in such appointments and such an arbitrary extension of tenure of the Respondent No. 4 raises questions as to whether the said extension is without external influences and extraneous pressures.
- F. **BECAUSE** it is critical that Officers such as the Respondent No. 4 are able to discharge their functions without fear of their appointments/reappointments/extensions being at the will of the Government.
- G. **BECAUSE** this Hon'ble Court in the judgement dated 22 September 2006 passed in **Prakash Singh & Ors vs. Union of India and Ors**, (2006) 8 SCC 1, had issued directions to the Central Government, State Governments and Union Territories for compliance till the framing of appropriate legislations with regard to "*Selection and Minimum Tenure of DGP*".

- H. **BECAUSE** this Hon'ble Court in the matter of **Prakash Singh & Ors vs. Union of India**, (2019) 4 SCC 13, stated that, “6.5. *An endeavour has to be made by all concerned to see that the person who was selected and appointed as the Director General of Police continues despite his date of superannuation. However, the extended term beyond the date of superannuation should be a reasonable period. We say so as it has been brought to our notice that some of the States have adopted a practise to appoint the Director General of Police on the last date of retirement as a consequence of which the person continues for two years after his date of superannuation. Such a practise will not be in conformity with the spirit of the direction.*”.
- I. **BECAUSE** the Hon'ble Supreme Court of India in **Prakash Singh & Ors vs. Union of India**, (2019) 4 SCC 1 issued further clarifications in the judgment dated 13 March 2019 in Writ Petition (Civil) No. 310 of 1996) stating that: “10. *We, therefore, clarify the order of this Court dated 3rd July, 2018 passed in I.A. No.25307 of 2018 in Writ Petition No.310 of 1996 to mean that recommendation for appointment to the post of Director General of Police by the*

*Union Public Service Commission and preparation of panel should be purely on the basis of merit from officers who have a minimum residual tenure of six months i.e. officers who have at least six months of service prior to the retirement.”*

- J. **BECAUSE** appointments to the post of Respondent No. 4 are at par with the post of Director General of Police and thus non-compliance of the aforesaid judgment with regard to appointments to the said post shall amount to blatant disregard of the directions of this Court.
- K. **BECAUSE** the extension of tenure of the Respondent No. 4 has been made a mere 3 days prior to his superannuation in blatant violation and disregard to various statutory provisions.
- L. **BECAUSE** according to the provisions of Fundamental Rule 56 there cannot be any extension of service of Respondent No. 4 and there is no exception in the said statutory provision for appointment / reappointment / extension of officers other than those mentioned in the said Rule.

- M. **BECAUSE** the extension of tenure of the Respondent No. 4 has been made a mere 3 days prior to his superannuation in blatant disregard of the judgement of this Hon'ble Court.
- N. **BECAUSE** there is no prima facie justification for having promulgated the said Ordinance when there are just two weeks left for the Parliament to be in session.
- O. **BECAUSE** there are no circumstances that render it necessary for the said Ordinance to be passed in such a post haste manner.
- P. **BECAUSE** it is the misuse and abuse of process followed for key appointments that has caused serious violations of the rights of the citizens and adherence to the Rule of Law.
- Q. **BECAUSE** there are no statutory provisions conferring powers on the Union of India to extend the tenure of Respondent No. 4 and the Union of India cannot circumvent the established Constitutional machinery in this manner.
- R. **BECAUSE** there are several competent officers who are eligible for consideration for appointments to the post of Respondent No. 4 and such persons should not be unjustly deprived of the opportunity to be appointed to such posts.

- S. **BECAUSE** the manner and haste with which the tenure of the Respondent No. 4 has been extended suggests that the extension has been made for extraneous reasons and has not been made keeping public interest as the paramount consideration.
- T. **BECAUSE** it is unfortunately becoming a norm that appointments / reappointments / extension of tenure of appointments to key posts is routinely being done in a manner that is not only arbitrary but is also contrary to statutory provisions and judicial directions.
- U. **BECAUSE** it is in national interest that the extension of tenure of officers appointed to critical posts is conducted in a transparent manner and in accordance with Rule of Law and that such appointments are insulated from partisan purposes and political patronage.
- V. Any other ground, as may be permitted by this Hon'ble Court.
13. The Petitioner has not filed any other petition nor made any application in respect of the subject matter of the present petition either in this Hon'ble Court or before any High Court.



14. The Petitioner does not have any other alternate or equally efficacious remedy but to approach this Hon'ble Court under Article 32 of the Constitution of India.

### **PRAYER**

In view of the facts and circumstances mentioned hereinabove the Petitioner most humbly prays that this Hon'ble Court may be pleased to issue an appropriate writ(s) / order(s) / direction(s) for the following reliefs:

- a. For a writ, direction or order seeking quashing of the Ordinance No. CG-DL-E-14112021-231129 promulgated on 14.11.2021; and
- b. For a writ, direction or order quashing Office Order No. 238/2021 issued by the Government of India, Ministry of Finance, Department of Revenue, dated 17 November, 2021 granting an extension of one year to Respondent No. 4 as Director, Directorate of Enforcement; and
- c. For a writ in the nature of mandamus seeking compliance with the directions issued by this Hon'ble

Court in the matter of **Common Cause Vs. Union of India & Ors.** W.P. (C) No. 1374 of 2020.

- d. For a writ in the nature of mandamus seeking that the appointment to the post of Director of the Directorate of Enforcement be finally made by a committee consisting of the Prime Minister, Leader of Opposition in the Lok Sabha and the Hon'ble Chief Justice of India or a Supreme Court judge nominated by the Hon'ble Chief Justice
- e. For issuance of a writ in the nature of Quo Warranto to quash the legality of extension of tenure of the Respondent No. 4 by the Ministry of Law & Justice.
- f. Pass any such other orders as may be deemed fit in the facts and circumstances of this case.

**DRAWN BY: SARIM NAVED, Adv**  
**ANSHU DAVAR, Adv**

**FILED BY:**



**AAKARSH KAMRA**  
**(Advocate for**

**Place: New Delhi**  
**Petitioner)**  
**Date: 19. 11.2021**