

**IN THE HON'BLE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
PUBLIC INTEREST LITIGATION**

Under Article 32 of the Constitution of India

WRIT PETITION (CIVIL) NO. _____ OF 2021

IN THE MATTER OF: -

Vishal Tiwari

.....Petitioner

Versus

Union of India & Ors.

.....Respondent

With

I.A. NO.....OF 2021

An Application for permission to Appear and Argue In Person

With

I.A. NO.....OF 2021

An Application for exemption from filing duly Affirmed Affidavit

PAPER BOOK

(FOR KINDLY SEE INSIDE)

PETITIONER IN PERSON – VISHAL TIWARI (ADVOCATE)

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PROFORMA FOR FIRST LISTING

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

*	Central Act : (Title)	Article -32 of the Constitution of India.
*	Section :	N.A
*	Central Rule : (Title)	N.A
*	Rule No(s).	N.A.
*	State Act: (Title)	N.A.
*	Section.	N.A.
*	State Rule : (Title)	N.A.
*	Rule No(s)	N.A.
*	Impugned Interim Order :	(Dated) N.A.
*	Impugned Final Order/Decree :	
*	High Court : (Name) High Court	N.A.
*	Names of Judges :	N.A.
*	Tribunal/Authority : (Name)	N.A.
1.	Nature of Matter	CIVIL.
2(a).	Petitioner/Appellant No.1.	Vishal Tiwari
(b)	E-mail ID :	████████████████████
(c)	Mobile Phone Number :	██████████
3 (a)	Respondent No.1 :	Union of India and ors.
(b)	E-mail ID :	N.A.
(c)	Mobile Phone Number :	N.A.
4 (a)	Category classification :	Civil matters

(b)	Sub classification :	0812-letter petition & pil matters : others
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6.	a. Similar disposed off matter with citation, if any & case details: b. Similar pending matter with case details:	No similar matter disposed off No similar matter is pending.
7.	Criminal Matters :	
(a)	Whether accused/convict has surrendered	N.A.
(b)	FIR No.	N.A.
(c)	Police Station :	N.A.
(d)	Sentence Awarded :	N.A.
(e)	Sentence Undergone :	N.A.
8.	Land Acquisition Matters :	N.A.
(a)	Date of Section 4 notification :	N.A.
(b)	Date of Section 6 Notification	N.A.
(c)	Date of Section 17 notification :	N.A.
9.	Tax Matters : State the tax effect :	N.A.
10.	Special Category (first petitioner/appellant only) :	N.A.
*	Senior citizen 65 years DC/ST * Woman/child * Disabled * Legal Aid case * In custody.	N.A.
11.	Vehicle Number (in case of Motor Accident Claim matters):	N.A.

Vishal Tiwari

P.I.P, Advocate Supreme Court of India

SYNOPSIS AND LIST OF DATES

The present petition is filed under Article 32 Read with Article 142 of the Constitution of India for the Protection of the Fundamental Rights of the Citizens envisaged under Article 14, 19 and 21 of the Indian Constitution. To seek the directions to take effective and remedial measures to redress and overcome the financial stress and hardship faced by the borrowers of the country during the Second wave of COVID19 and Lockdown. Article 32 provides for the fundamental right to judicial review, for the enforcement of the rights guaranteed under Part III. Nowhere in Part III has an exception to this been carved out, with respect to policy decisions.

The CORONA VIRUS is the Engine and lockdown is a Wagon attached to it. Where the Virus goes, lockdown follows it. Both are disastrous, the Virus effects the health system and lockdown effects in several ways. The difference is that the later is adopted to bring down the Virus. The CORONA virus has proved disaster and to contain it the Measure of LOCKDOWN is adopted. The Citizens have Stood together to fight with this deadly virus and for this they have Sacrificed their Bread, their Earning, their hunger, their economy, business, jobs and even the future of

their Children. But during this it is required that government should take every possible measure to keep the living of the citizens Comfortable and easy. Their financial burden should be decreased and Citizens shall not loose their Dignity. Financial policies are made by the government but in present time above financial policies the question is of Survival. And the population of our Nation shall survive with dignity and without any Stress.

Since the time of emergence of COVID-19 in India, the country has witnessed numerous havocs in the form of medical emergency, economic distress due to the subsequent lockdown to reduce the transmission rate of COVID-19 in India. The first wave of COVID-19 primarily in the year 2020 saw huge Financial Crisis and Slump for service sector/lawyers, Transport and Tourist Industry and other MSME industries.

In present time we are witnessing the Second wave of COVID19, which has resulted in heavy human casualties. The second wave has pushed again the entire country towards Lockdown. As corona has brought disaster, So the lockdown is also proving disaster for the economy. There is a big part of our population in our country which daily Earns and Eat. Their Survival depends upon the daily earning, like Daily wages workers, labours, tea vendors, Cart pullers, and even professional like Lawyers depend upon the daily earning. Lockdown has paused everything. The emergence of

COVID 19 pandemic in India has brought serious repercussion in the form of unemployment, failed businesses and unengaged practise of professionals. Such situation has now questioned upon the sustenance of the individuals. Various people have lost jobs during this situation of biological emergency and various professionals and independent litigators have gone through real financial hardship to sustain in this due course of time. Due to the lockdown scenario in the country because of the COVID-19, it has become a real struggling issue to pay off the monthly loan instalments of the banks taken for different purposes due to no salary, revenue for the individuals, defaults in paying the EMIs of the banks witnessed show the fact that the capability and the ability of the individuals to pay such has reduced as there is no constant and secured income of the legal professionals and independent litigators due to the closure of the businesses.

The Reserve Bank of India Notice RBI/2019-2020/186 DOR. No. BP.BC. 47/21.04.048/2019-20 dated 27th March, 2020 was brought in to grant the relief of suspension of monthly loan instalment and the Notice RBI/2019-2020/244 DOR. No. BP.BC. 71/21.04.048/2019-2020 dated 23rd May, 2020 was again brought in to extend the relief for another 3 months that is till 31st, August, 2020.

The Reserve Bank of India through its circular RBI/2020-21/16 DOR.NO.BP.BC/3/21.04.048/2020-21 dated: 06.08.2020 provided for the facility of restructuring that is to reschedule the payments or grant a moratorium for the maximum period of 2 years.

Such reliefs during the first wave of the COVID-19 stood as a greater relief for all those stressed individuals however the present situation requires similar and immediate relief for the citizens of this country.

The second wave of COVID-19 which primarily has occurred in the year 2021 has shaken the country from within wherein the health care system as well as the economy has seen destruction. Research and development along with the opinion of scientists has proved the fact that the second wave of the COVID-19 has been immensely threatening and is more dreadful than the first wave. To restrict such transmission, maximum of the states of this country has put lockdown with severe restrictions and allowance only to essential shops as to confine people to their home only. States like Maharashtra, Madhya Pradesh, Rajasthan, Karnataka, West Bengal and Delhi is under strict lockdown so as to restrict such transmission.

However, it needs to be mentioned with great affirmation that the Central Government and its concerned ministries along with the Reserve Bank of India has failed to bring in any Sound relief in this present situation for all

those stressed sectors and individuals for whom sustenance and existence has been a question. No such monetary relief and packages has been declared by the sovereign in this stressed time and people are under tremendous pressure to maintain the EMIs and is always under the threat of accounts being declared NPA. With no salary, revenue for individuals it has turned out to be a hopeless situation for individuals. The RBI on 6-5-2021 has issued a circular for resolution plan 2.0, which cannot be said adequate relief to all in the present circumstances being arbitrary, unfair and just a eyewash.

Such non-action and reluctance on the part of the Respondents have violated the fundamental rights of livelihood and dignity and therefore requires the immediate intervention of this Court in the interest of public justice.

LIST OF DATES

27-3-2020: After the Announcement of lockdown during first wave of COVID19 the Reserve Bank of India Notice RBI/2019-2020/186 DOR. No. BP.BC. 47/21.04.048/2019-20 dated 27th March, 2020 was brought in to grant the Moratorium and relief of suspension of monthly loan instalments which operated till 31st march 2020.

6-8-2020- Resolution plan for restructuring the loan was introduced by the RBI which ended on 31st December 2020.

5-5-2021- Reserve Bank of India has again brought resolution plan 2.0 following its circular dated 6-8-2020 for Stressed MSMEs during second wave of COVID19.

Hence this present Writ Petition Civil (PIL)

**IN THE HON'BLE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
PUBLIC INTEREST LITIGATION**

WRIT PETITION (CIVIL) NO. _____ OF 2021

(A Petition in the nature of Public Interest Litigation filed under Article 32 of the Constitution of India praying for a writ of Mandamus or any other appropriate writs to seek the directions to take effective and remedial measures to redress and overcome the financial stress and hardship faced by the borrowers of the country during the Second wave of COVID19 and Lockdown in the form of fresh loan moratorium, extension of time period under the restructuring scheme and temporary cease on the declaration of NPA by the financial banks and to all the banks to kindly adhere to the same so as to bring a relief for the public interest at large till the situation is normal when this Court deems fit.)

IN THE MATTER OF:

1. Vishal Tiwari

S/o. Mahendra Prasad Tiwari

Age 36, R/o. B-2,

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... Petitioner

VERSUS

1. Union of India, through Secretary

Ministry of Finance, North Block,

Central Secretariat, New Delhi.

Delhi – 110001.

2. Union of India

Ministry of Home Affairs,

Through secretary

North Block, Central Secretariat,

New Delhi,

Delhi 110001.

3. Reserve Bank of India

Through The Governor,

Shahid Bhagat Singh Road,

Mumbai-400 001

.....All Contesting Respondents

(A PETITION IN THE NATURE OF PUBLIC INTEREST LITIGATION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA PRAYING FOR A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRITS TO SEEK THE DIRECTIONS TO TAKE EFFECTIVE AND REMEDIAL MEASURES TO REDRESS AND OVERCOME THE FINANCIAL STRESS AND HARDSHIP FACED BY THE BORROWERS OF THE COUNTRY DURING THE SECOND WAVE OF COVID-19 AND LOCKDOWN. AND FOR RELIEF IN THE FORM OF FRESH LOAN MORATORIUM, AND TEMPORARY CEASE ON THE DECLARATION OF NPA BY THE FINANCIAL BANKS AND ENFORCEMENT OF OTHER PRELIMINARY MEASURE WITH IMMEDIATE EFFECT AND DIRECTIONS TO ALL THE BANKS TO KINDLY ADHERE TO THE SAME SO AS TO BRING A RELIEF IN THE INTEREST OF PUBLIC AT LARGE TILL THE TIME THE SITUATION IS AGAIN NORMAL WHEN THIS COURT DEEMS FIT.)

AND TO DECLARE THE CIRCULAR DATED 5-5-2021 ISSUED BY THE RBI AS RESOLUTION FRAMEWORK 2.0- RESOLUTION OF COVID-19 RELATED STRESS OF MICRO, SMALL AND MEDIUM ENTERPRISES (MSMES) AS ARBITRARY, UNFAIR AND NOT ADEQUATE IN THE PRESENT SITUATION

To,

The Hon'ble Chief Justice of India

And His Companion Justices

Of the Supreme Court of India.

The Writ Petition of the

Petitioner above named

MOST RESPECTFULLY SHOWETH

1. The present Writ Petition civil in the nature of Public Interest Litigation is filed under Article 32 of the Constitution of India by the Petitioner to enforce the fundamental rights, particularly the Right to Livelihood and Right to Dignity which is enshrined under Article 21 by seeking the directions to take effective and remedial measures to redress and overcome the financial stress and hardship faced by the borrowers of the country during the Second wave of COVID19 and Lockdown in the form of fresh loan moratorium, extension of time period under the restructuring scheme and temporary cease on the declaration of NPA by the financial banks and

to all the banks to kindly adhere to the same so as to bring a relief for the public interest at large till the situation is normal when this Court deems fit.

1A. That during the first wave of COVID19 for granting the financial reliefs the Writ petition Civil PIL No. 945 Of 2020 VISHAL TIWARI VERSUS UNION OF INDIA AND ORS. was filed and it was decided along with the other batch of similar petitions on 23rd march 2021 as partly allowed. Now the fresh cause of Action has aroused in the shape of Second wave of COVID-19 and lockdown which has never been expected earlier.

ARRAY OF PARTIES

2. The Petitioner is a citizen of India, who is a practising Advocate in Supreme Court of India and a regular member of Supreme Court Bar Association (SCBA). Petitioner is always vigilant about the Supreme Court of India's Judgements and guidelines issued from time to time for the protection and safeguard of the Fundamental rights of the citizens. The petitioner [REDACTED]

3. The Petitioner does not have any personal interest or any persona gain or private motive or any other oblique reason in filing this Writ Petition in Public Interest. The Petitioner has not been involved in any other civil or criminal or revenue litigation, which could have legal nexus with the issues

involved in the present Petition. No similar petition has been filed before this court and any High court.

4. The Respondent No. 1 is the Union of India, represented by Ministry of Finance, which is the appropriate ministry dealing with safeguarding the financial policies of our country.

The respondent no. 2 Union of India represented by ministry of home affairs which the appropriate ministry is dealing with the protection of people fundamental Rights.

5. The Respondent No.3, the Reserve bank of India, Represented by its Governor, which is appropriate authority for the extension of moratorium period and granting financial relief during COVID19.

FACTS OF THE CASE

6. This novel coronavirus is neither flu nor Plague. Many experts agree that the virus has likely spread too widely to make eradication a possibility, at least without an effective vaccine, better disease surveillance and major safeguards on the way humans come into contact with wild animals. The high transmissibility and the sheer number of asymptomatic infections mean that eradication may never have really been an option. That means

that the ongoing response to COVID-19 may involve controlling rather than halting transmission of the virus completely.

The CORONA VIRUS is the Engine and lockdown is a Wagon attached to it. Where the Virus goes, lockdown follows it. Both are disastrous, the Virus effects the health system and lockdown effects in several ways. The difference is that the later is adopted to bring down the Virus. The CORONA virus has proved disaster and to contain it the Measure of LOCKDOWN is adopted. The Citizens have Stood together to fight with this deadly virus and for this they have Sacrificed their Bread, their Earning, their hunger, their economy, business, jobs and even the future of their Children. But during this it is required that government should take every possible measure to keep the living of the citizens Comfortable and easy. Their financial burden should be decreased and Citizens shall not loose their Dignity. Financial policies are made by the government but in present time above financial policies the question is of Survival. And the population of our Nation shall survive with dignity and without any Stress.

The Coronavirus Disease 2019 (COVID-19) pandemic has had a significant effect on unemployment in every state, industry, and major demographic group in India. This report provides information on which groups have

experienced the largest increases in unemployment rates since the onset of the pandemic in 2020. Young workers, women, workers with low educational attainment, part-time workers, and racial and ethnic minorities had relatively high unemployment rates in April 2020. India is still not out of the woods as far as unemployment is concerned after a year when the lockdown was imposed to contain the spread of deadly COVID-19 on March 25 last year as pandemic-induced job loss has not tapered off consistently. The government had imposed a lockdown to curb the spread of the pandemic but this impacted economic and commercial activities and resulted in job loss and later on the exodus of migrant workers which rocked the entire nation.

Due to the country's lock-down scenario due to the COVID-19, paying the monthly loan instalments of banks for various purposes due to no salary, income to people, default on paying the banks' EMIs have shown that the individuals' ability to pay has been reduced, as no permanent payments have been made.

The Reserve Bank of India Notice RBI/2019-2020/186 DOR. No. BP.BC. 47/21.04.048/2019-20 dated 27th March, 2020 was brought in to grant the relief of suspension of monthly loan instalment. **A true copy of the circular dated 27-3-2020 is Annexed herewith and marked as Annexure P-1,**

pages 23 to 25. and the Notice RBI/2019-2020/244 DOR. No. BP.BC. 71/21.04.048/2019-2020 dated 23rd May, 2020 was again brought in to extend the relief for another 3 months that is till 31st, August, 2020.

The Reserve Bank of India through its circular RBI/2020-21/16 DOR.NO.BP.BC/3/21.04.048/2020-21 dated: 06.08.2020 provided for the facility of restructuring. **A true copy of the circular dated 6-8-2020 is Annexed herewith and marked as Annexure P-2, pages 26 to 28 .**

These reliefs were more important during the initial COVID-19 wave for all the people who were depressed but the current situation calls for the people of that country to get similar and urgent relief.

As India battles the second wave of coronavirus cases and states impose restrictions to curb the spread of infections, the unemployment rate inched up in April and is likely to close the month at a higher rate than March, as per think-tank Centre for Monitoring Indian Economy (CMIE). In the last week of March (ended 28), the unemployment rate was 6.7 per cent, which shot up to 8.2 per cent in the following week, ending April 4. It inched up to 8.6 per cent in the week ended April 11 and is likely to close the month at 8 per cent after closing March at 6.5 per cent.

It should be said with great affirmation, however, that for all the strained sectors and individuals whose sustenance and livelihoods has been at issue, the Central Government and its ministries concerned along with the Reserve Bank of India failed to provide any relief in the current situation. In this stressed moment, no such monetary aid and packages has been proclaimed by the sovereign and there is enormous pressure on citizens to sustain the EMIs. With no wage, income for people has proved an unexpected circumstance for people. That the Reserve Bank of India has again brought resolution plan 2.0 following its circular dated 6-8-2020 for Stressed MSMEs during second wave of COVID19, which on its face itself appears arbitrary, unfair and inadequate not benefitting the real stressed borrowers. **A true copy of the circular dated 6-5-2021 is Annexed herewith as Annexure P-3, pages 29 to 30.**

That no one expected that the situation of COVID19 and lockdown will once again hit in very severe manner in comparison to the first wave in 2020.

Therefore at this situation of distress, it is absolutely important to enforce the following preliminary measures which will stands as a relief during this situation pandemic:

1. Property Taxes, fines and penalties should be waived during all lockdown periods

2. Have paid salaries last lockdown by taking the ECLG loans and requests that staff salaries be paid via direct transfer
3. Moratorium should be given for at least 2 years – without interest piling up – pause it completely although after the first lock down principal amount went up substantially with huge compound interest such should not be imposed this time.
4. ECLG loans may please be given again, rents, electricity and phone bills also needs to be disbursed.
5. Vaccination drives need to be immediately increased with the compliance to covid protocols.

7. GROUNDS

A. Present Writ Petition of the Petitioner in this present case stands firmly maintainable as there has been violation of fundamental rights of the Public at large. The violation of Right to Livelihood and Right to Dignity enshrined under Article 21 and Fundamental Rights under Article 14 and 19. The Second wave of Corona virus and lockdown has the situation worse for the Citizens to sustain during this time of COVID-19 and lockdown. The Respondent no.1,2 and 3 do come under Article 12 of the Constitution and is considered as a state's instrumentality. Hon'ble Delhi High Court in the

case of J.S. Sachdev and Ors. vs Reserve Bank of India [ILR 1973Delhi 392] wherein it was held “ *Reserve Bank of India is a ‘state’ under Art. 12 of the Constitution and being a public authority has the obligatory responsibility to abide by the public duty.* ” This Hon’ble Court in the case of Federal bank Ltd vs. Sagar Thomas & Ors. [Appeal (Civil) No: 106 of 2001] held that “writ can be enforced against a person or authority under Article 12 for the enforcement of the fundamental rights”

B. This Court in the case of Maneka Gandhi v. Union of India gave a new dimension to Art. 21 and held that “*right to life is not merely a physical right but includes within its ambit the right to live with human dignity*” However in this present situation, the right to live with human dignity has been jeopardised because sustenance has been a question and the situation has been worse wherein the individuals are under always pressure to maintain the EMIs with the threat of default leading to declaration account as NPA. Such has created mental pressure, situational turmoil for individuals because salary business revenue is ceased due to the locked business due to maximum cities of the country are under lockdown.

C. Because the unemployment rate has started rising again during the second wave of corona virus. The lockdown almost in all states has again closed many small and medium businesses and MSMEs are also facing shut down. The income of the people have been severely effected and they are not able to pay their debts because of non - availability of funds. The professionals especially the lawyers are severely hit by the lockdown and non functioning of the courts. They are not able to pay their essential bills like electricity bills water bills and House/office rents. The travel and tourism industry is also again come to shut down as all movements and travel of the public has been restricted

D. Because by the circular dated 6.8.2020 Reserve Bank of India has only allowed the Restructure of the Term loans of Micro, medium and Small Enterprises (MSME's) with some limitations. Moratorium has not been extended as per to this circular. Restructuring is not going to help the service sector (Professionals/lawyers) nor to the Tourism Industry, Drivers ,Tourist Guide and others who are self-employed and passing through the hard times due to the slump in their work and profession. Such situation requires the immediate of issuance of fresh loan moratorium along with the increase in the time period of the restructuring scheme.

E. Because there are several other sectors who are facing serious financial crises during this period and requires more moratorium period to overcome the crises. Some of them are Transport sector, Travel agencies including Drivers, Tourist guides and others who are part of tourist Industry. The worst situation in the country is being seen in the automobiles and aviation sector. At the same time, the hospitality and service sectors are also running in a very bad condition. All the sectors work has come to a standstill, due to which either the employees are being fired or sent on paid leave. Even the salary is being reduced from 40 to 60 percent. The road transport sector in India is highly distressed, reeling in deep financial crisis due to fallout of corona-induced lockdowns and there is little hope of its revival in the current Financial Year.

F. The actions of the lending institutions during the COVID-19 hasn't been customer friendly neither during the first wave nor the second wave and such institution in the name of business policy has always created create nuisance when EMI's are missed or not paid even for one month. For recovery of the EMI the lending institutions/Banks they adopt illegal and violent methods, which are against law and order. Snatching of vehicles along with verbal and physical fights have been a common scene during this situation.

G. Because the resolution plan 2.0 circular dated 6-5-2021 for Stressed MSMEs during second wave of COVID19, which on its face itself appears arbitrary, unfair and inadequate not benefitting the real stressed borrowers.

It can be understood from the below chart-

Resolution Framework 2.0 – Resolution of Covid-19 related stress of Micro, Small and Medium Enterprises (MSMEs)

As per RBI Guidelines issued	Suggestion
(i) The borrower should be classified as a micro, small or medium enterprise as on March 31, 2021 in terms of the Gazette Notification S.O. 2119 (E) dated June 26, 2020.	RBI should allow MSME borrower, even if they do get register after 31/3/2021, since intention of RBI is to give support to MSME, hence registration should not be blockage the intention. RBI can stipulate a condition that the borrowing entity is to be registered on MSME portal the date of implementation of the restructuring. (This is in line with GST registration as mentioned herein below)
(ii) The borrowing entity is GST-registered on the date of implementation of the restructuring. However, this condition will not apply to MSMEs that are exempt from GST-registration. This shall be determined on the basis of exemption limit obtaining as on March 31, 2021	Appreciate the practical view of the RBI, this should have been allowed for MSME Registration.
(iii) The aggregate exposure, including non-fund based facilities, of all lending institutions to the borrower does not exceed Rs25 crore as on March 31, 2021.	<p>This should be open ended rather than restricting to loan amount as well as cut-off date, since some-one would have received the loan post 31st March 2021 also. This was the same problem many cases were faced in previous policy of the loan due to cut-off date. Please appreciate that Bank are disbursing loan to various borrowers on daily basis to some of the others.</p> <p>We do not understand the point of RBI restriction about the loan amount for applying the resolution framework. Is it not against equalities of the borrower to get support due to current pandemic?</p> <p>Is the pandemic effecting only the person who borrowed less then Rs. 25 Crores ?</p>

This pandemic is nothing but and force majeure event. Unfortunately there is no clause force majeure event in any Bank's loan agreement, which is itself is not a proper commercial agreement. This ignores the salient concept of partnership of the Bank and the industry is to facilitate the economic growth and not stifle it by such adverse actions.

Bank cannot be averse to the cardinal principle of mutuality that loan contracts are not for extraction and extortion in a democratic setup and unilateral acts such as the ones pointed out, are, to say the least, irresponsible.

Due to restrictive, monopolistic, and Licence Raj attitude of the RBI & GOI, under which no one can either Borrow / Lend the money from any person / entity unless and until they are registered with the RBI / GOI as money lenders. Hence Borrower has no option to sign the loan agreement as it is.

Now days Bank are selling loan as product hence, the terms of the loans should be decided between Lenders and Bank, and RBI / GOI should not interference in their loan policy and terms of loan.

If the loan agreement would have covered the **force majeure clause, the borrower and lenders would have triggered the same and accordingly they would have restructured the loan liability and in event of dispute they would have gone to arbitration for the same.**

Hence we request Court to kindly instruct RBI & GOI for not to interference in the commercial deals of the Bank and Borrower.

They have full right to monitor the financials of the bank, audit their quality of advances, qualify their financials, if the appropriate provision has not been made for loss / bad assets.

This suggestion will change the Banking Industry and Indian economy all together, as well as it will fix more accountability with flexibility on the Bankers.

We request Court to ask for the detailed working of the RBI for making such policy, where we will know their capability of handling the things. It is getting mess month after month. In their policy we do not found any vision or focus for good banking health.

(iv) The borrower's account was a 'standard asset' as on March 31, 2021.	It should be as on 31/3/2020, to get real benefit of such force majeure / unexcepted / uncontrollable events.
(v) The borrower's account was not restructured in terms of the circulars DOR.No.BP.BC/4/21.04.048/2020-21 dated August 6, 2020; DOR.No.BP.BC.34/21.04.048/2019-20 dated February 11, 2020; or DBR.No.BP.BC.18/21.04.048/2018-19 dated January 1, 2019 (collectively referred to as MSME restructuring circulars).	Should not be applicable, since when first resolution was made under earlier circulars, the current situation would have not been factored and that is also a reason for Borrower to submit a fresh request of resolution.
The restructuring of the borrower account is invoked by September 30, 2021. For this purpose, the restructuring shall be treated as invoked when the lending institution and the borrower agree to proceed with the efforts towards finalising a restructuring plan to be implemented in respect of such borrower. The decisions on applications received by the lending institutions from their customers for invoking restructuring under this facility shall be communicated in writing to the applicant by the lending institutions within 30 days of receipt of such applications. The decision to invoke the restructuring under this facility shall be taken by each lending institution having exposure to a borrower independent of invocation decisions taken by other lending institutions, if any, having exposure to the same borrower.	This is absolutely correct. Only there should be a provision of appealing authority, with time frame, when the lender refuses the Invocation and borrower wants to appeal for resolution.
(viii) If the borrower is not registered in the Udyam Registration portal, such registration shall be required to be completed before the date of implementation of the restructuring plan for the plan to be treated as implemented.	This is correct, hence point No. (i) The borrower should be classified as a micro, small or medium enterprise as on March 31, 2021 in terms of the Gazette Notification S.O. 2119 (E) dated June 26, 2020. Should not be applicable.
(ix) Upon implementation of the restructuring plan, the lending institutions shall keep provision of 10 percent of the residual debt of the borrower.	It should not be applicable, since it reduces the financial capability of the Bankers, and the action is due to force majeure and not on failure of any one on its own.

Almost same logic for the Resolution Framework – 2.0: Resolution of Covid-19 related stress of Individuals and Small Businesses

Therefore there requires the immediate enforcement of the preliminary measures to uphold the violation of fundamental rights by allowing the preliminary areas in the interest of public.

1. Property Taxes, fines and penalties should be waived during all lockdown periods

2. Have paid salaries last lockdown by taking the ECLG loans and requests that staff salaries be paid via direct transfer

3. Moratorium should be given for at least 2 years – without interest piling up – pause it completely although after the first lock down principal amount went up substantially with huge compound interest such should not be imposed this time.

4. ECLG loans may please be given again, rents, electricity and phone bills also needs to be disbursed.

5. Vaccination drives need to be immediately increased with the compliance to covid protocols.

G. Because the lawyers and other sector due to slump in their work which has caused shortage of funds and obstruction in cash flow, will not be able to repay their Debts/EMI's.

PRAYER

In the said premises it is most respectfully prayed that this Hon'ble Court may graciously be pleased to:

i. Issue Writ/Writs including the Writ of Mandamus or any other writ or Direction in the nature thereof of directing the Respondents to take effective and remedial measures to redress and overcome the financial stress and hardship faced by the borrowers of the country during the Second wave of COVID19 and Lockdown.

ii. Issue Writ/Writs including the Writ of Mandamus or any other writ or Direction in the nature thereof of directing the Respondents to permit the lending institutions to grant interest free moratorium period for term loan and defer the payment of loan installments for a period of six months or till Situation from COVID 19 Normalizes.

iii. Issue Writ/Writs including the Writ of Mandamus or any other writ or Direction in the nature thereof by declaring Resolution Framework 2.0 – Resolution of Covid-19 related stress of Micro, Small and Medium Enterprises (MSMEs) dated 5-5-2021 (ANNEXURE P-2) Arbitrary

and direct the respondents to modify/Amend the Resolution framework 2.0 in its given clause No.ii, iii, iv by counting the account as Standard asset as on 31-3-2020 and the total aggregate exposure of all lending institutions to the borrower exceeding 25 Crore shall be covered.

iv. issue the writ/writs including that of mandamus or any other writ or direction in nature of and direct that , any Bank or Financial Institution shall not take action for auction in respect of any property of any citizen or person or party or any Body corporate for a period of Six months.

v. . issue the writ/writs including that of mandamus and direct that No account shall be declared as Non-performing Asset for a period of Six months.

vi. Direct the respondents to ensure that such directions are being kindly adhered by the financial institutions and to impose the same.

Pass such other appropriate relief which this Hon'ble Court may deemed fit in the facts and circumstances of the case.

FOR THIS ACT OF KINDNESS THE PETITIONER/APPLICANT
HEREIN AS IN DUTY BOUND SHALL EVER PRAY.

DRAWN ON- 10.05.2021

FILED ON – 10.05.2021

DRAWN BY

FILED BY

Vishal Tiwari (Advocate Supreme court of India)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

PETITIONER IN PERSON

2. The Petitioner does not have any personal interest or any personal gain or private motive or any other oblique reason in filing this Writ Petition in Public Interest. The Petitioner has not been involved in any other civil or criminal or revenue litigation, which could have legal nexus with the issues involved in the present Petition. No similar petition has been filed before this court and any High court.

DEPONENT

VERIFICATION:

Verified at New Delhi on this 09th Day of May, 2021 that the facts stated herein are true to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

DEPONENT

APPENDIX**Article 32 in the Constitution of India 1949**

32. Remedies for enforcement of rights conferred by this Part

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part

(3) Without prejudice to the powers conferred on the Supreme Court by clause (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2)

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution

RESERVE BANK OF INDIA**www.rbi.org.in**

RBI/2020-21/16

DOR.NO.BP.BC/3/21.04.048/2020-21

August 6, 2020

All Commercial Banks (Including Small Finance Bank, Local Area Bank and Regional Rural Bank)

All Primary (Urban) Co-Operative Banks/State Co-Operative Banks/District Central Co-Operative Banks

All All-India Financial Institutions

All Non-Banking Financial Companies (Including Housing Finance Companies)

Madam/Dear Sir,

Resolution Framework for COVID-19 Related Stress.

The Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions 2019, dated June 7, 2019(**“Prudential Framework”**) provides a principle-based resolution framework for addressing borrower defaults under a normal scenario. Any resolution plan implemented under guidelines of “Prudential Framework” which involves

granting of any concession on account of financial difficulty of the borrower entails an asset classification downgrade,

except when it is accompanied by a change in ownership, which allows the asset classification to be retained as or upgraded to Standard, subject to the prescribed conditions.

2. The economic fallout on account of the Covid-19 pandemic has led to significant financial stress for borrowers across the board. The resultant stress can potentially impact the long-term viability of many firms, otherwise having a good track record under the existing promoters, due to their debt burden becoming disproportionate relative to their cash flow generation abilities. Such widespread impact could impair the entire recovery process, posing significant financial stability risks.

3. Considering the above, with the intent to facilitate revival of real sector activities and mitigate the impact on the ultimate borrowers, it has been decided to provide a window under the Prudential Framework to enable the lenders to implement a resolution plan in respect of eligible corporate exposures without change in ownership, and personal loans, while classifying such exposures as Standard, subject to specified conditions. The details of the facility are given in the Annex.

4. The lending institutions shall ensure that the resolution under this facility is extended only to borrowers having stress on account of Covid19. Further, the lending institutions will be required to assess the viability of the resolution plan, subject to the prudential boundaries laid out in this Annex. Towards this end, each lending institution shall put in place a Board

approved policy detailing the manner in which such evaluation may be done and the objective criteria that may be applied while considering the resolution plan in each case.

5. Accounts which do not fulfill the required eligibility conditions to be considered for resolution under this framework may continue to be considered for resolution under the Prudential Framework, or the relevant instructions as applicable to specific categories of lending institutions where the Prudential Framework is not applicable.

6. While the Prudential Framework is otherwise not applicable to certain categories of lending institutions to which this circular is addressed, exposures of these lending institutions shall also be included for any resolution under this facility. Consequently, without prejudice to the specific conditions applicable to this facility, all the norms applicable to implementation of a resolution plan, including the mandatory requirement of Intercreditor Agreements (ICA) and specific implementation conditions, as laid out in the Prudential Framework shall be applicable to all lending institutions for any resolution plan implemented under this facility. Terms used in this document, to the extent not defined herein, shall have the same meaning assigned to them in the Prudential Framework.

Yours faithfully,

(Saurav Sinha)

Chief General Manager-in-Charge

//TRUE COPY//

to redress and overcome the financial stress and hardship faced by the borrowers of the country during the Second wave of COVID19 and Lockdown in the form of fresh loan moratorium, extension of time period under the restructuring scheme and temporary cease on the declaration of NPA by the financial banks and to all the banks to kindly adhere to the same so as to bring a relief for the public interest at large till the situation is normal when this Court deems fit.

2. The petitioner for the sake of brevity has avoided to repeat the averments made in the accompanying contempt petition as the petitioner has comprehensively and substantially substantiated the material facts and relied upon the averments made herein and the averments made therein may kindly be read as part and parcel of this application.

3. That in the present situation when Citizens are facing financial setback and hardship due to the COVID19 Second wave lockdown than it is necessary to protect their fundamental Rights of life and liberty and to live with dignity guaranteed in the Constitution of

India. In the present Situation it becomes essential to pass the following interim relief

PRAYER

In the above circumstances it is therefore most respectfully prayed that this Hon'ble Court may please to:

- (a) Direct that , any Bank or Financial Institution shall not take action for auction in respect of any property of any citizen or person or party or any Body corporate for a period of till further Orders;
- (b) Direct that No account shall be declared as Non-performing Asset for a period of Six months.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS DUTY BOUND SHALL EVER PRAY.

Filed by:

Vishal Tiwari
Advocate
Supreme Court of India
Petitioner-in Person

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**IN THE HON'BLE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
PUBLIC INTEREST LITIGATION**

I.A NO _____ 2021

IN

WRIT PETITION (CIVIL) NO. _____ OF 2021

IN THE MATTER OF:

Vishal Tiwari ... Petitioner

Versus

Union of India and Ors. ... Respondent

**AN APPLICATION FOR PERMISSION TO APPEAR AND
ARGUE IN PERSON**

To,
The Hon'ble Chief Justice and his
Companion judges of the Hon'ble
Supreme Court of India

The humble petition of

The above named petitioner

MOST RESPECTFULLY SHOWETH:

1.The present Writ Petition civil in the nature of Public Interest Litigation is filed under Article 32 of the Constitution of India by the Petitioner to enforce the fundamental rights, particularly the Right to Livelihood and Right to Dignity which is enshrined

under Article 21 by seeking the directions to take effective and remedial measures to redress and overcome the financial stress and hardship faced by the borrowers of the country during the Second wave of COVID19 and Lockdown in the form of fresh loan moratorium, extension of time period under the restructuring scheme and temporary cease on the declaration of NPA by the financial banks and to all the banks to kindly adhere to the same so as to bring a relief for the public interest at large till the situation is normal when this Court deems fit.

2. The petitioner for the sake of brevity has avoided to repeat the averments made in the accompanying contempt petition as the petitioner has comprehensively and substantially substantiated the material facts and relied upon the averments made herein and the averments made therein may kindly be read as part and parcel of this application.
3. That the petitioner to appear and argue in person in the above mentioned case as he himself is an Advocate, practicing in the Supreme Court of India, he is the member of Supreme Court of India, he is the member of Supreme Court Bar Association and he is

well conversant with the facts and circumstances of the case. The petitioner wants to appear and argue IN-PERSON and he does not want any Advocate.

PRAYER

In the above circumstances it is therefore most respectfully prayed that this Hon'ble Court may please to:

- (a) To the petitioner to appear and argue in person in this petition;
- (b) Pass such other order or orders as this Hon'ble would deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS DUTY BOUND SHALL EVER PRAY.

Filed by:

Vishal Tiwari
Advocate
Supreme Court of India

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**IN THE HON'BLE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
PUBLIC INTEREST LITIGATION**

I.A NO _____ 2021

IN

WRIT PETITION (CIVIL) NO. _____ OF 2021

IN THE MATTER OF:

Vishal Tiwari

... Petitioner

Versus

Union of India and Ors.

... Respondent

AN APPLICATION FOR EXEMPTION FROM FILING DULY
AFFIRMED AFFIDAVIT

To,
The Hon'ble Chief Justice and his
Companion judges of the Hon'ble
Supreme Court of India
The humble petition of
The above named petitioner

MOST RESPECTFULLY SHOWETH:

1. . The present Writ Petition civil in the nature of Public Interest Litigation is filed under Article 32 of the Constitution of India by the Petitioner to enforce the fundamental rights, particularly the Right

to Livelihood and Right to Dignity which is enshrined under Article 21 by seeking the directions to take effective and remedial measures to redress and overcome the financial stress and hardship faced by the borrowers of the country during the Second wave of COVID19 and Lockdown in the form of fresh loan moratorium, extension of time period under the restructuring scheme and temporary cease on the declaration of NPA by the financial banks and to all the banks to kindly adhere to the same so as to bring a relief for the public interest at large till the situation is normal when this Court deems fit.

2. The petitioner for the sake of brevity has avoided to repeat the averments made in the accompanying petition as the petitioner has comprehensively and substantially substantiated the material facts and relied upon the averments made herein and the averments made therein may kindly be read as part and parcel of this application.
3. That the petitioner seeks exemption from filing the duly affirmed and attested Affidavit as due to COVID19 lockdown the oath commissioner or Notary public is not available nearby to the place of petitioner.

PRAYER

In the above circumstances it is therefore most respectfully prayed that this Hon'ble Court may please to:

- (a) Exempt the petitioner from filing duly Affirmed and Attested Affidavit;
- (b) Pass such other order or orders as this Hon'ble would deem fit and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS DUTY BOUND SHALL EVER PRAY.

FILED ON- 10-05-2021

Filed by:

Vishal Tiwari
Advocate
Supreme Court of India
Petitioner-in Person

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SECTION -PIL W

**IN THE HON'BLE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)**

PUBLIC INTEREST LITIGATION

WRIT PETITION (CIVIL) NO. _____ OF 2021

IN THE MATTER OF

VISHAL TIWARI

...PETITIONER

VERSUS

UNION OF INDIA AND ORS.

...RESPONDENTS

Sl. No.	PARTICULARS	COPIES	COURT FEE
1.	WRIT PETITION	E-FILING	N.A
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Filed on: 10-05-2021

Vishal Tiwari

Advocate

Supreme Court of India

Petitioner-in Person

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