

IN THE HIGH COURT OF DELHI AT NEW DELHI  
EXTRAORDINARY WRIT JURISDICTION  
WRIT PETITION (CRL.) NO.1612 OF 2019

IN THE MATTER OF:

AMIT SAHNI

...PETITIONER

VERSUS

UNION OF INDIA & ORS.

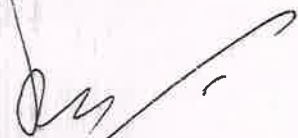
...RESPONDENTS

INDEX

S. NO.	PARTICULARS	PAGE NO.
1.	Counter Affidavit on behalf of the Respondent No.1 / Union of India	1-4

RESPONDENTS

Through



VINOD DIWAKAR

Central Government Standing Counsel

Office: 3, Birbal Road, II Floor,

Jangpura Extension, New Delhi-110014

Mobile-9868120032

Email: cgsc@vinoddiwakar.com

NEW DELHI

DATED: 02.08.2019

IN THE HIGH COURT OF DELHI, AT NEW DELHI  
(Extraordinary Writ Jurisdiction)

Writ Petition (Criminal) No. 1612 of 2019

IN THE MATTER OF

AMIT SAHNI

... Petitioner

- Vs -

1. The Union of India,  
Through its Secretary,  
Ministry of Health and Family Welfare,  
Maulana Azad Road,  
New Delhi - 110011.
2. The Union of India,  
represented by its Secretary,  
Ministry of Law and Justice,  
4<sup>th</sup> Floor, A-Wing, Shastri Bhawan,  
New Delhi - 110001.
3. The National Commission for Women,  
Represented by its Member Secretary,  
Plot No.21, Jasola Institutional Area,  
New Delhi - 110025

... Respondents



**COUNTER AFFIDAVIT OF THE RESPONDENT No. 1, MINISTRY  
OF HEALTH AND FAMILY WELFARE, UOI.**

I, DNK Kutumba Rao, S/o. Late Shri D. Suryanarayana, Hindu aged about 58 years, presently working as Under Secretary in the Ministry of Health and Family Welfare (MH Division) having office at Nirman Bhawan, New Delhi - 110108, do hereby solemnly affirm and declare on behalf of the Respondent as under :-

1. I submit that I am the 1<sup>st</sup> Respondent herein and as such I am well aware of the facts and circumstances of the case. Hence, I am competent to swear this Counter Affidavit.

*(Signature)*  
DNK KUTUMBA RAO  
Under Secretary  
Ministry of Health & Family Welfare  
Govt. of India  
New Delhi

I respectfully submit that many of the averments set out in the Affidavit and Petition filed by the Petitioner are untrue, unverified

frivolous, erroneous, vexatious and unsustainable in law and facts.

I deny all the averments of the Writ Petition and Affidavit of the Petitioner except that are specifically admitted by me.

3. I respectfully submit that I, in my official capacity and on the basis of the documents made available, am well aware of the facts and circumstances of the case and have understood the contents thereof.
4. I respectfully submit that I am authorized and I am competent to swear Counter Affidavit on behalf of the answering Respondent and have read and fully understood the contents of the petition made by the above named Petitioner. Liberty is further craved in making such other and further submissions / filing Additional Affidavit as may be required in the facts of the case subsequently or as may be directed by this Hon'ble Court.
5. I respectfully submit that the Hon'ble Court has admitted the present writ petition (Criminal) against the answering respondent wherein, it was stated that Union Health Ministry drafted an amendment of Medical Termination of Pregnancy Act, 1971 for cases in which doctors diagnose foetal abnormalities or substantial risks to the mother or the child and same is still pending and waiting light of the day.




I respectfully submit that by the way of present Petition appropriate Writ has been sought inter alia, to direct the Central Government to respond as to when the Medical Termination of Pregnancy Act, 1971 would be amended as per the proposed draft amendment to the Medical Termination of the Pregnancy Act, by increasing the upper gestation limit for legal termination of pregnancies from 20 weeks to 24/26 weeks.

*(Signature)*  
 (D. N. K. KUTUBA MAO)  
 Under Secretary  
 Ministry of Health & F.W.  
 Govt. of India  
 New Delhi

7. I respectfully submit that the Ministry of Health and Family Welfare after seeking the comments on the draft Cabinet Note for Medical Termination of Pregnancy Act Amendment from the Ministry of Women and Children Development, Ministry of Social Justice and Empowerment and Niti Aayag has sent the Final Draft Cabinet Note after approval of Hon'ble HFM on 01.03.2019 to Ministry of Law and Justice.
8. I respectfully submit that the said cabinet note for amendment was returned by the Ministry of Law and Justice dated 14.03.2019, stating therein *"Since both the houses of Parliament have been adjourned sine -die , therefore administrative Ministry may, as soon as the new Government is sworn in, take a view in the matter with the approval of the New Minister in Charge and thereafter completing requisite consultation with various stake holders and inter - Ministerial (Including the consultation with the Ministry of Legal Affairs) may forward the draft note for the Cabinet to this department along with the draft bill for obtaining the concurrence of Hon'ble Minister of Law and Justice."*
9. I respectfully submit that in view of the above, the Administrative Ministry has already initiated the process of inter-ministerial consultation for the Amendment in Medical Termination of Pregnancy Act, 1971 and will finalise the same as soon as possible.

**Prayer:-**

Under the above circumstances, it is most respectfully submitted that the Hon'ble High Court may graciously be pleased to admit this Affidavit filed on behalf of the Respondent No. 1 (Union of India). It is prayed that this Honourable Court may be pleased to dismiss the present Criminal Writ Petition and to pass such further


  
 Under Secretary  
 Ministry of Health & F.W.  
 Govt. of India  
 New Delhi

or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case and thus render Justice.

*[Handwritten Signature]*

I Identify the Executant/Deponent Who has Signed in my Presence

*[Handwritten Signature]*  
(डी. न. क. कुटुम्बा राव)  
**DEPONENT**  
अन्तर सचिव  
Under Secretary  
स्वास्थ्य एवं परिवार कल्याण मंत्रालय  
Ministry of Health & F.W.  
भारत सरकार / Govt. of India  
नई दिल्ली / New Delhi

F-3 AUG 2019

VERIFICATION:

I, the deponent above named do hereby verify that contents of the above Affidavit are true to my knowledge and belief and based on the record, no part of it is false and nothing material has been concealed there from.

Verified at New Delhi on this \_\_\_\_\_ day of August, 2019.

*[Handwritten Signature]*  
(डी. न. क. कुटुम्बा राव)  
**DEPONENT**  
(D. N. K. KUTUMBA RAO)  
अन्तर सचिव  
Under Secretary  
स्वास्थ्य एवं परिवार कल्याण मंत्रालय  
Ministry of Health & F.W.  
भारत सरकार / Govt. of India  
नई दिल्ली / New Delhi

F-3 AUG 2019



I CERTIFY THAT THE CONTENTS EXPLAINED TO ME BY THE DEPONENT HEREIN IS THAT WHO IS SEEMED PERFECT TO UNDERSTAND AFFIRMED & DEPOSED BEFORE ME AT NEW DELHI  
*[Handwritten Signature]*  
I IDENTIFY THE EXECUTANT/DEPONENT WHO HAS SIGNED IN MY PRESENCE  
NOTARY PUBLIC (DELHI)  
N.K. AGARWAL, Advocate  
*[Handwritten Signature]*