

**IN THE SUPREME COURT OF INDIA**

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO      OF 2019

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

**IN THE MATTER OF:**

SANJJIIV KKUMAAR

...PETITIONER

VERSES

GOVT OF NCT OF DELHI

...RESPONDENT

PAPER BOOK

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**ADVOCATE FOR PETITIONER: PETITIONER-IN-PERSON**

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## PERFORMA FOR FIRST LISTING

**Section: PIL**

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

- ☐ Central Act: The Constitution of India
- ☐ Section: Articles 14, 15, 19(1)(g), 21
- ☐ Central Rule: Motor Vehicle Act 1988 (59 of 1988)
- ☐ Rule No: Section 115(Power to restrict the use of vehicle)  
r/w Clause (41) of Section 2
- ☐ State Act: N/A
- ☐ Section: N/A
- ☐ State Rule: N/A
- ☐ Rule No: N/A
- ☐ Impugned Interim Order: N/A
- ☐ Impugned Final Order / Decree: N/A
- ☐ High Court: N/A
- ☐ Name of Judges: N/A
- ☐ Tribunal / Authority Name : N/A

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1. Nature of Matter: Civil

2. (a) Petitioner / Appellant: SANJJIV KKUMAAR

(b) Email ID:

[legal@knewmax.org](mailto:legal@knewmax.org)

(c) Phone No: 9013465694

3. (a) Respondent: Union of India and another

(b) Email ID: N/A

(c) Phone No: N/A

4. (a) Main Category: 08 PIL Matters

(b) Sub Category: 0812, Others

5. Not to be listed before: N/A

6. Similar/Pending matter:

7. Criminal Matters: N/A

(a) Whether accused / convicted has surrendered: N/A

(b) FIR / Complaint No: N/A

(c) Police Station: N/A

(d) Sentence Awarded: N/A

(e) Period of Sentence Undergone including period of detention/custody under gone: N/A

8. Land Acquisition Matters:

(a) Date of Section 4 Notification: N/A

(b) Date of Section 6 Notification: N/A

(c) Date of Section 17 Notification

9. Tax Matters: State the Tax Effect: N/A

10. Special Category: N/A

11. Vehicle No in case of motor accident claim matters): N/A

12. Decided Cases with Citation:

Date: 05.11.2019

**ADVOCATE FOR PETITIONER: PETITIONER IN PERSON**

**SANJJIIV KKUMAAR(ADV)**

## SYNOPSIS

By way of instant petition under Article 32 of the Constitution of India r/w Article 142 of the Constitution of India, Petitioner is challenging validity of Odd-Even Scheme of Govt of NCT of Delhi ,through Notice No. 23(1549)/CAP/TPT/PCD/2019/1579/78617 dated 01/11/2019, as it is arbitrary, irritational, unconstitutional, abuse of power, contrary to statutory provision Section 115(Power to restrict the use of vehicle) Motor Vehicle Act 1988 (59 of 1988) and contrary to the fundamental rights - equality before Law and equal protection of law (Article 14 of the Constitution of India), prohibition of discrimination (Article 15 of the Constitution of India), all citizens shall have the right to practice any profession, or to carry on any occupation, trade or business and to move freely throughout the territory of India (Article 19[1][g] & 19[1][d]of the Constitution of India) equal opportunity in public employment, right to establish educational institution, right to know etc. guaranteed under Articles 14, 15, 19 and 21 of the Constitution of India.

That, it is respectfully submitted that License Plate is only for identification for Vehicle(Like Employee Roll Number, Examination Roll Number) , **like Aadhaar Number(Can we classify 1.3 Billion Indians, on the Basis of odd and even number ending, in Aadhar Card Identification Number)** and it's in no way a class in itself. Just like dog is called with different name in different language but it remains same whatsoever we label or call it, similarly we can have any nomenclature for License Plate. Instead of DL 4C AE 6732 the

license plate can be DL XX YY AHDK and it will remain the same Vehicle and same class of vehicle. Changing the License Plate will not change a Car to Motor Cycle. Also, if we change it to ALL ALPHABETS like **DL XX YY AHDK**, as per the Delhi Govt we will have 26 Class of Vehicle having last alphabet from A to Z. So as per Odd Even Logic, in a month of 30 days, vehicle with Number Plate **DL XX YY AHDK** will be on road only on 1 day and on Sundays. Hence odd even can never be class by itself.

That, as per literal interpretation of Statue, it we take aid of *Objects and Reasons* in Section 115 of Motor Vehicle Act, Section 115 of the Motor Vehicle Act 1988 was always meant to restrict vehicle on the basic of specified class of motor vehicle. Section 115 is stated underneath.

*Objects and Reasons. – Clause 115 empowers the State Government and prescribed authorities to restrict the driving of any specified class of motor vehicle and also to restrict the driving of any class of motor vehicle below a minimum speed fixed for that class of vehicle on any public road*

That, Mischief rule of statutory interpretation is applied to find out what parliament meant when it was making law, in this case Section 115. Now Section 115 corresponds to section 74 of the Motor Vehicles Act, 1939 and at that time neither pollution was an issue nor the number of vehicles was an issue. So the act at that time meant anything except equating class with Odd Even Vehicle.

Hence, as per Federation of Delhi Bus Operators & Ors. .... Petitioners vs. Lt. Governor of Delhi & Ors. .... Respondents, **2011 SCC OnLine Del 1707 : (2011) 180 DLT 283 (DB)** ruling,



literal and mischief rule of interpretation and Aadhaar Number, Animal Kingdom, All Alphabets Analogy , it crystal clear that the driving of motor vehicles or of any specified class or description of motor vehicles in no way whatsoever can bring Odd Even in the ambit of Class and Hence the Odd Even Notice of Govt of NCT of Delhi is arbitrary, irritational, unconstitutional, abuse of power, contrary to statutory provision Section 115(Power to restrict the use of vehicle) Motor Vehicle Act 1988 (59 of 1988)

Notification of Odd Even Vehicle Scheme is arbitrary, illogical, illegal, done capriciously in an unreasonable manner and unconstitutional that in the 12 days Odd Even period(from 4<sup>th</sup> November 2019 to 14<sup>th</sup> November 2019), it exclusively allows Odd Car to Ply on the road on 5, 7, 9, 11, 13, 15 that is 6 days and it exclusively allows Even Car to Ply on road on 4, 6, 8, 12, 14 that is 5 days. So only God knows why Odd Car are given preference. Odd Cars 6 days Vs Even Cars 5 days. Hence Odd Even Notification is ultra vires Article 14 and 15 of the Constitution of India. It shows that Odd Even is nothing but political and Vote Bank Gimmick as it has been done capriciously in an unreasonable manner.

Odd Even Vehicle Scheme violates Fundamental Rights of residents of Delhi and adjoining states residents who daily commute in/out of Delhi in their four wheeled vehicles (motor cars etc.) to do their jobs/business to earn their livelihood and is ultra vires Article 19(1)(g) of the Constitution of India

Three sources of Delhi air-quality data confirmed that the odd-even system did not lower pollution levels: The union government's Central Pollution Control Board (CPCB); the Delhi's government's Delhi Pollution Control Committee (DPCC); and IndiaSpend's Breathe network. Odd Even is nothing but political gimmick for self-promotion and advertisements in the smokescreen of curbing pollution.

Dates of ODD Even scheme was announced well in advance on 13<sup>th</sup> September 2019 but the advertisement given by Delhi Govt in Newspapers now-a-days say that "DELHI POLLUTION IS DOWN BY 25% BUT SMOKE FROM STUBBLE BURNING IS COMING TO DELHI SO ODD EVEN IS BEING INTRODUCED ONCE AGAIN". Delhi Govt is no Nostradamus, then how come it knows well in advance the when smoke from Stubble Burning will reach Delhi exactly around Odd Even Scheme Dates. There seems to be strong nexus between Stubble Burning Framers, Political Parties, Purifier Companies, mask making companies

There is no scientific proof that a woman is more susceptible to the effect of Pollution, but Odd Even Scheme discriminate against Man and Woman on the basis of Gender thus violating Fundamental rights Odd Even Scheme exempt a woman who knows driving but woman who can't drive aren't exempted to let her driver or any other male members of her family to drive the 4 Wheeler (Car). Hence it differentiates a woman on the basis of her driving and is ultra vires Article 14 and 15 of the Constitution of India

Odd Even Scheme takes sadistic pleasure by robbing lower middle class and middle class their right to drive to earn their livelihood by doing their jobs/business by bracketing their 4 Wheelers in Odd Even Scheme and pleasing the govt vote bank as it has been proved that 2 Wheelers cause more pollution than 4 wheelers (Motors, Cars)

On the day of Odd Even Scheme, that is 4<sup>th</sup> November 2019 at 4:16PM, AQI(Air Quality Index) of New Delhi was 191[**Annexure-P6(Colly)**], whereas that of Noida was 170, Ghaziabad 167. Hence Odd Even is ineffective as without Odd Even Noida and Ghaziabad were far better than New Delhi. This was bound to happen as due to Vote Bank Politics Delhi Govt has excluded the Biggest Vehicle Pollution Culprit , that is , Two-Wheelers from odd Even Scheme.

Due to Wind Speed change and other weather changes, on 6/11/2019 at 01:16 AM , the AQI of Delhi was 187, Noida 170, Gurugram 180, Ghaziabad 189. If the AQI of NCR Cities of Noida, Gurugram, Ghaziabad are same or less than Delhi without Odd Even , it means that odd even is Not Effective and this fact was stated in NGT by DPCC and CPCB that Phase 1 and 2 of Odd Even were Abject Failures as Votebank Politics, Advertisement was the main concern and curbing pollution was never the objective of Delhi Govt

It is most humbly and respectfully prayed that this Hon'ble Court may be pleased to issue writ in the nature of certiorari or any or any other appropriate writ, order or directions, to the respondent declaring Odd-Even Scheme of Govt of NCT of Delhi, Notice No.

23(1549)/CAP/TPT/PCD/2019/1579/78617 dated 01/11/2019 as Void Ab Initio and Inoperative as it is arbitrary, irritational, unconstitutional, abuse of power, contrary to statutory provision Section 115(Power to restrict the use of vehicle) Motor Vehicle Act 1988 (59 of 1988) and Ultra Vires the fundamental rights - equality before Law and equal protection of law prohibition of discrimination, all citizens shall have the right to practice any profession, or to carry on any occupation, trade or business and to move freely throughout the territory of India, equal opportunity in public employment, etc. guaranteed under Articles 14, 15, 19 and 21 of the Constitution of India.

Also, it is most respectfully and humbly prayed that this Hon'ble Court may be pleased to Stay the execution of Odd Even Vehicle Scheme during the pendency of the present petition

#### **LIST OF DATE**

13.09.2019: Shri Arvind Kejriwal, Chief Minister of Govt. of NCT of Delhi announced the 3<sup>rd</sup> Season of Odd Even Vehicle Scheme in National Capital Territory of Delhi for 12 days starting from 4<sup>th</sup> November 2019 to 15<sup>th</sup> November 2019

01.11.2019:

**IN THE SUPREME COURT OF INDIA**  
CIVIL ORIGINAL  
JURISDICTION WRIT PETITION  
(CIVIL) NO      OF 2019  
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

**IN THE MATTER OF:**

SANJJIIV KKUMAAR

FLAT NO - 522, TOWER-J,  
PLOT NO-GH04,  
NOIDA, 201301,  
UTTAR PRADESH

...Petitioner

Versus

GOVT. OF NCT OF DELHI,  
THROUGH ITS CHIEF  
SECRETORY, PLAYERS  
BUILDING, I.P. ESTATE,  
NEW DELHI -110002

...Respondent

PIL UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA  
R/W ARTICLE 142 OF THE CONSTITUTION OF INDIA,  
CHALLENGING VALIDITY OF ODD-EVEN SCHEME OF GOVT  
OF NCT OF DELHI ,NOTICE NO.  
23(1549)/CAP/TPT/PCD/2019/1579/78617 DATED 01/11/2019,  
AS IT IS ARBITRARY, IRRITATIONAL, UNCONSTITUTIONAL,  
ABUSE OF POWER, CONTRARY TO STATUTORY PROVISION  
SECTION 115(POWER TO RESTRICT THE USE OF VEHICLE)  
MOTOR VEHICLE ACT 1988 (59 OF 1988) AND ULTRA VIRES  
FUNDAMENTAL RIGHTS - EQUALITY BEFORE LAW AND  
EQUAL PROTECTION OF LAW, PROHIBITION OF  
DISCRIMINATION, ALL CITIZENS SHALL HAVE THE RIGHT TO  
PRACTICE ANY PROFESSION, OR TO CARRY ON ANY  
OCCUPATION, TRADE OR BUSINESS AND TO MOVE FREELY  
THROUGHOUT THE TERRITORY OF INDIA ETC. GUARANTEED  
UNDER ARTICLES 14, 15, 19 AND 21 OF THE CONSTITUTION  
OF INDIA.

To,  
THE HON'BLE CHIEF JUSTICE OF INDIA  
AND LORDSHIP'S COMPANION JUSTICES  
OF THE HON'BLE SUPREME COURT OF INDIA  
THE HUMBLE PETITION OF ABOVE-NAMED PETITIONER  
THE MOST RESPECTFULLY SHOWETH AS UNDER:

1. The Petitioner is filing this writ petition as a PIL under Article 32 of the Constitution of India r/w Article 142 of the Constitution of India, Petitioner is challenging validity of Odd-Even Scheme of Govt of NCT of Delhi, Notice No. 23(1549)/CAP/TPT/PCD/2019/1579/78617(**Annexure-P1**) dated 01/11/2019, as it arbitrary, irritational, unconstitutional, abuse of power, contrary to statutory provision Section 115(Power to restrict the use of vehicle) Motor Vehicle Act 1988 (59 of 1988) and ultra vires fundamental rights - equality before Law and equal protection of law (Article 14 of the Constitution of India), prohibition of discrimination (Article 15 of the Constitution of India), all citizens shall have the right to practice any profession, or to carry on any occupation, trade or business and to move freely throughout the territory of India (Article 19[1][g] & 19[1][d] of the Constitution of India) equal opportunity in public employment, etc. guaranteed under Articles 14, 15, 19 and 21 of the Constitution of India. Hence, the said Odd Even Notice may be declared as void ab initio and inoperative.

It is further prayed before this Hon'ble Court that in exercise of power vested on this Hon'ble Court, Hon'ble Court may do the complete justice under Article 142 of Constitution of India by immediately staying the Operation of Odd Even Scheme of the Delhi Govt.

- 2 The petitioner has filed a PIL Writ Petition in Hon'ble Delhi High Court W.P.(C) 11521/2019 With CM APPL. 47325/2019 SANJJIIV KKUMAAR Vs GOVT. OF NCT OF DELHI AND ANR. There were other PIL Petition filed by other petitioners. W.P.(C) 11252/2019 With CM APPL. 46327/2019 SHASHWAT BHARDWAJ Vs GOVT. OF NCT OF DELHI and W.P.(C) 11551/2019 With CM APPL. 47470/2019 CM APPL. 47471/2019 SANTOSH GUPTA Vs GOVT. OF NCT OF DELHI AND ORS. All petition were against Odd Even and was jointly heard by Hon'ble Delhi High Court. Hon'ble Court disposed off the petition on 01/11/2019 with No Direction and treated all the above 3 PILs as Representation.
- 3 The order of Hon'ble Court is yet to be uploaded on website as on 06.11.2019 but it was widely reported in Newspapers. The one published in MoneyControl is reproduced herewith(**Annexure-P2**):

*The Delhi High Court on Friday directed the AAP government to treat as a representation three PILs challenging the road rationing odd-even scheme, expected to be in force in the national capital from November 4-15.*

*A bench of Chief Justice D N Patel and Justice C Hari Shankar directed the Delhi government to take a decision on the representations by November 5 and disposed of the pleas.*

*The bench disposed of all three petitions after Additional Solicitor General (ASG) Sanjay Jain, appearing for the Delhi government, told the court that the pleas would be treated as a representation and decisions would be taken in accordance with law, rules and regulations as early as possible and*

*practicable.*

*One of the petitions by social activist Sanjiiv Kkumaar, had alleged that the scheme was being implemented "solely for vote bank politics and spending crores of rupees in advertisement and promotion in the guise of curbing pollution".*

*It had claimed that the "cause and remedy was totally mismatched" as two-wheelers that cause maximum pollution were exempted, while CNG vehicles were not as it was difficult to check the CNG stickers on vehicles.*

*"There is discrimination based on gender also," it had also alleged, referring to the exemption granted to women under the scheme.*

*The exemptions granted to women was challenged in the plea by Shashwat Bhardwaj, who had also questioned the rationale behind exempting vehicles of judges, MPs, ministers and heads of various statutory bodies.*

*The third petition, by Santosh Gupta, had opposed the AAP government's decision not to exempt CNG vehicles under the scheme due to misuse of CNG stickers in the past.*

*The same bench had last week dismissed a similar plea against the odd-even scheme as the petition did not contain details of the road rationing policy and the petitioner had not made any representation to the government before approaching the court.*

4. Apart from the above disposed PIL Writ petition, the Petitioner has



not filed any other same or similar writ petition either in this Hon'ble Court or in any other High Court seeking same or similar directions as prayed in the instant writ petition.

5. Petitioner's full name is SANJJIV KKUMAAR. Residence at: Flat No - 522, Tower-J, Plot No-Gh04, Noida, 201301, Uttar Pradesh Ph No: 9013465694, Email: legal@knewmax.org, PAN: , AADHAAR: . Annual Income is Rs. . Petitioner is an Advocate and highly respected and qualified professional having done his B.Tech(Computer Science), M.Tech(Computer Science & Engineering) from a renowned Jawaharlal Nehru University, New Delhi. After being in the IT Professional field for a decade in India and Overseas, petitioner devotes most part of his time, as Social Activist, for public cause Petitioner is director of an NGO Knewmax Benevolent Foundation whose motto is Justice Is Truth in Action. Justice and Equality for All, Human Rights, Social Reforms, Gender Equality and has filed may Public Interest Litigations.
6. The facts constituting cause of action accrued on 13.09.2019 and every subsequent date, when Chief Minister of Govt of NCT of Delhi (hereinafter "Delhi") announced Odd Even Scheme from 4<sup>th</sup> November 2019 to 15<sup>th</sup> November 2019
7. The injury caused to the public is very large because Odd-Even Scheme of Govt of NCT of Delhi , Notice No. 23(1549)/CAP/TPT/PCD/2019/1579/78617 dated 01/11/2019, is arbitrary, irritational, unconstitutional, abuse of power, contrary to statutory provision Section 115(Power to restrict the use of vehicle) Motor Vehicle Act 1988 (59 of 1988) and violates

fundamental rights, – Article 14, 15, 19, 21 of the Constitution of India, of residents of Delhi and adjoining states and whoever coming or going out of Delhi in Private 4 Wheelers..

8. It is respectfully submitted that the Petitioner has no personal interest, individual gain, private motive or oblique reasons in filing this writ petition. It is not guided for gain of any other individual person, institution or body. There is no motive other than larger public interest and interest of justice. Further, it is disclosed that there is no civil, criminal or revenue litigation, involving petitioner, which has or could have legal nexus with the issues involved in this writ petition. The Petition is totally bona-fide and in larger public interest.
9. There is no alternate efficacious remedy available in terms of the prayers sought in this writ petition and thus, there is no requirement to approach any government authority for the reliefs sought herein.
10. Also, the points raised pertains to Question of Law pertaining to Central Act and violation of fundamental rights and only Constitutional Court can adjudicate the matter.
11. By way of instant petition under Article 32 of the Constitution of India r/w Article 142 of the Constitution of India, Petitioner is challenging validity of Odd-Even Scheme of Govt of NCT of Delhi ,through Notice No. 23(1549)/CAP/TPT/PCD/2019/1579/78617 dated 01/11/2019, as it is arbitrary, irritational, unconstitutional, abuse of power, contrary to statutory provision Section 115(Power to restrict the use of vehicle) Motor Vehicle Act 1988 (59 of 1988) and contrary to the fundamental rights - equality

before Law and equal protection of law (Article 14 of the Constitution of India), prohibition of discrimination (Article 15 of the Constitution of India), all citizens shall have the right to practice any profession, or to carry on any occupation, trade or business and to move freely throughout the territory of India (Article 19[1][g] & 19[1][d] of the Constitution of India) equal opportunity in public employment, right to establish educational institution, right to know etc. guaranteed under Articles 14, 15, 19 and 21 of the Constitution of India.

### **FACTUAL MATRIX**

- 12 That, on 13<sup>th</sup> September 2019, Shri Arvind Kejriwal, Chief Minister of Govt. of NCT of Delhi announced the 3<sup>rd</sup> Season of Odd Even Vehicle Scheme in National Capital Territory of Delhi for 12 days starting from 4<sup>th</sup> November 2019 to 15<sup>th</sup> November 2019
- 13 That, since 13<sup>th</sup> September 2019, Shri Arvind Kejriwal and his ministers and Delhi Govt, through Press Conference and Press Release and in Media Interaction has given the nitty gritty of this 3<sup>rd</sup> Season of Odd Even Vehicle Scheme
- 14 Odd Even Scheme is Ultra Vires to Section 115 of the Motor Vehicle Act 1988(59 of 1988) and Ultra Vires Article 19(1)(g), 14, 15, 21 of Constitution of India and is arbitrary, illogical, done capriciously in an unreasonable manner without adequately determining principle cause and remedy and solely for vote bank politics and spending crores of rupees in advertisement and promotion in the guise of curbing pollution
- 15 Odd-Even Scheme of Govt of NCT of Delhi ,Notice No. 23(1549)/CAP/TPT/PCD/2019/1579/78617 dated 01/11/2019 is

stated underneath:

[TO BE PUBLISHED IN DELHI GAZETTE PART - IV EXTRA -  
ORDINARY] GOVERNMENT OF NATIONAL CAPITAL  
TERRITORY OF DELHI TRANSPORT DEPARTMENT  
5/9, UNDER HILL ROAD, DELHI - 110054.

Dated the 01/11/2019

### NOTIFICATION

No. 23(1549)/CAP/TPT/PCD/2019/1579/78617 - Whereas the National Capital Territory in Delhi has more than eleven million registered vehicles and the vehicular pollution has become a major source of air pollution in Delhi;

Whereas, Hon'ble Supreme Court of India, Hon'ble High Court of Delhi and Hon'ble National Green Tribunal have passed various directions from time to time to take immediate action to control the alarming level of vehicular pollution in Delhi and all out efforts are being made to give effect to the directions of the Hon'ble Courts.

Therefore, in exercise of the powers conferred by section 115 read with clause (41) of section 2 of the Motor Vehicles Act, 1988, (59 of 1988), the Lieutenant Governor of the National Capital Territory of Delhi, on being satisfied that further steps are required to control vehicular pollution caused by non-transport four wheeled vehicles (motor cars etc.), hereby orders in the interest of public safety, that the following prohibitory / restrictive measures shall be in force in the area of the National Capital Territory of Delhi, namely

(i) The plying of non-transport four wheeled vehicles (Motor Cars etc.) having registration number ending with odd digit (1,3,5,7,9) shall be prohibited on 4<sup>th</sup>, 6<sup>th</sup>, 8<sup>th</sup>, 12<sup>th</sup> and 14<sup>th</sup> November, 2019 and plying of the non-transport four wheeled Vehicles having registration number ending with even digit (0,2,4,6,8) shall be prohibited on 05<sup>th</sup>, 07<sup>th</sup>, 09<sup>th</sup>, 11<sup>th</sup>, 13<sup>th</sup> and 15<sup>th</sup> November, 2019.

(ii) These restrictions shall also apply to the non-transport four wheeled vehicles bearing registration number of other states

(iii) These restrictions shall be applicable from 8 AM to 8 PM of such dates.

(iv) These restrictions shall not be applicable on Sunday.

(v) These restrictions shall not apply to the vehicles of such categories as mentioned in the Schedule annexed to this notification.

(vi) Violation of this notification shall attract fine in accordance with the provisions of subsection (1) of section 194 of the Motor Vehicles Act, 1988.

Further, in exercise of the powers conferred by sub-section (1) of section 200 and under subsection (1) of section 213 of the Motor Vehicles Act, 1988 (59 of 1988), read with rule 123 of the Delhi Motors Vehicles Rules, 1993, the Lieutenant Governor of the National Capital Territory of Delhi is pleased to authorize the following officers to compound the aforementioned offence with the amount of Rs.4,000/-, namely

(vii) Officers of the rank of Head Constable and above of Delhi Police.

(viii) Officers of the rank of Head Constable and above of the Transport Department, Government of the National Capital Territory of Delhi.

(ix) All Sub Divisional Magistrates and Tehsildars of the Revenue Department, Government of the National Capital Territory of Delhi.

(x) Assistant Traffic Inspector (ATI) and above of the Delhi Transport Corporation.

The aforementioned officers at point (c) and (d) above, are also authorised to exercise the powers under clause (e) of sub-section 5 of section 213 of the said Act, to launch prosecution under section 194 of the said Act, 1988 for the offences committed in violation of this notification and they will be deemed to be officers of Transport Department, GNCTD under subsection (1) of section 213 of the said Act, read with rule 123 of the Delhi Motor Vehicles Rules, 1993 for these purposes. The amount compounded by the authorised officers/authorities shall be deposited in the "Major Head 0041, taxes on vehicles, 101-MV (Fee & Fine)", of the Transport Department, Government of the National Capital Territory of Delhi. The above notification shall come into force with effect from 4<sup>th</sup> November, 2019 and will remain in force till 15<sup>th</sup> November, 2019.

16 That it is submitted that , Section 115 of the Motor Vehicles Act 1988, (59 of 1988) is defined as:

*115. Power to restrict the use of vehicle-*

*The State Government or any authority authorised in this behalf by the State , if satisfied that it is necessary in the interest of public safety or convenience, or because of the nature of any road or bridge, may by notification in the Official Gazette, prohibit or*

*restrict, subject to such exceptions and conditions as may be specified in the notification, the driving of motor vehicles or of any specified class or description of motor vehicles or the use of trailers either generally in a specified area or on a specified road and when any such prohibition or restriction is imposed, shall cause appropriate traffic signs to be placed or erected under section 116 at suitable places.*

*Provided that where any prohibition or restriction under this section is to remain in force for not more than one month, notification thereof in the Official Gazette shall not be necessary, but such local publicity as the circumstances may permit, shall be given of such prohibition or restriction.*

*Corresponding Law. – Section 115 corresponds to section 74 of the Motor Vehicles Act, 1939.*

*Objects and Reasons. – Clause 115 empowers the State Government and prescribed authorities to restrict the driving of any specified class of motor vehicle and also to restrict the driving of any class of motor vehicle below a minimum speed fixed for that class of vehicle on any public road*

17. That, in Federation of Delhi Bus Operators & Ors. .... Petitioners vs. Lt. Governor of Delhi & Ors. .... Respondents, 2011 SCC OnLine Del 1707 : (2011) 180 DLT 283 (DB), a similar challenge was there and Hon'ble Delhi High Court was to be adjudicated whether Blue Line Buses can be called a "Class" in itself".

Hon'ble Delhi High Court in Para 13 observed that "On examination of the issues, we find that what is sought to be restricted is the plying of vehicles, in a particular area, by according an alternate routes to the blueline/white line bus operators. The prohibition is in respect of only blueline/whiteline buses only. Thus the controversy really centres around the issue as to whether the blueline/whiteline buses can be said to be a

'class' by themselves. If it is so only then the impugned notification would fall within the ambit of the provisions of Section 115 of the said Act"

18. Hon'ble Delhi High Court observed that *"The expression used in section 115 of the said Act is "any specified class or description of a motor vehicle", thus both "class" and "description" of a motor vehicle are capable of being prohibited or restricted. All buses may be motor vehicles of one description or the other but blue line/white line buses are certainly a "class" by themselves. We thus are not persuaded to hold that the impugned notification is ultra vires the provisions of section 115 of the said Act"*
19. Hon'ble Delhi High Court observed that *"From the perusal of Section 115(Power to restrict the use of vehicle) Motor Vehicle Act 1988 (59 of 1988), its clear that in Odd Even Scheme to Come into ambit of provision of Section 115 of Motor Vehicle Act 1988 (59 of 1988) , Odd Number and Even Number 4 Wheelers need to be said to be a "class" by themselves. If it is so only then the impugned notification would fall within the ambit of the provisions of Section 115 of the said Act".*
20. That, As per Oxford Dictionary "class" is a set or category of things having some property or attribute in common and differentiated from others by kind, type, or quality" Its synonym is "category, grade, rating, classification, group, grouping, bracket".

For example , human belongs to a class "Mammalia" which is subclass of "Vertebrates"(They have spinal column, includes a well-developed head). The brain is protected in a cranium and the



endoskeleton may be cartilaginous or bony”

Vertebrata is divided into five classes of vertebrates. These five classes of vertebrates comprise of all the species of animals have developed vertebral column as well as an internal skeleton.

Other characteristic features of vertebrates are:

- Presence of a true vertebral column and internal skeleton with muscle attachment points for body movement.
- A front side muscular heart with two, three or four chambers.
- Kidneys for excretion and osmoregulation
- A paired appendages which may be fins or limbs.
- Possess notochord during the embryonic stage.
- Vertebrates are the only chordates to possess a brain as a part of the central nervous system.

21. Mammalia Class - That, these organisms are distinguished by the presence of mammary glands, a segmented body that is divided into Head-Neck-Trunk-Tail. Digits are provided with claws, nails or hooves. They are warm-blooded animals.

Examples of Class Mammalia include monkeys, dogs, cats, lions, bats, squirrels , humans etc.

- 22 That, Now if we take the example of Dogs, its called “Kukur” in Bengali, Hund in German and by different names every language and dialects , even though it name may change , but its characteristics will remain same. It will not become Fish in one language and Reptile in other language. In any language and dialect, it will have all the



characteristics and attributes of Class Vertebrates along with Sub Class Mammalia and it will be dog only

23. That, similarly any vehicle has certain attributes/properties/characteristics like Number of wheels, Makers Name, Model Name, Colour, Body Type, Seating Capacity, Horse Power, Number of Cylinders, Number of Axle, Fuel Type, Emission Norms etc.
24. That, it is respectfully submitted that License Plate is only for identification for Vehicle(Like Employee Roll Number, Examination Roll Number) , like **Aadhaar Number(Can we classify 1.3 Billion Indians, on the Basis of odd and even number ending, in Aadhar Card Identification Number)** and it's in no way a class in itself. Just like dog is called with different name in different language but it remains same whatsoever we label or call it, similarly we can have any nomenclature for License Plate. Instead of DL 4C AE 6732 the license plate can be DL XX YY AHDK and it will remain the same Vehicle and same class of vehicle. Changing the License Plate will not change a Car to Motor Cycle. Also, if we change it to ALL ALBHABETS like **DL XX YY AHDK**, as per the Delhi Govt we will have 26 Class of Vehicle having last alphabet from A to Z. So as per Odd Even Logic, in a month of 30 days, vehicle with Number Plate **DL XX YY AHDK** will be on road only on 1 day and on Sundays. Hence odd even can never be class by itself.
25. That, as per literal interpretation of Statue, it we take aid of *Objects and Reasons* in Section 115 of Motor Vehicle Act, Section 115 of the Motor Vehicle Act 1988 was always meant to restrict vehicle on

the basic of specified class of motor vehicle. Section 115 is stated underneath.

*Objects and Reasons. – Clause 115 empowers the State Government and prescribed authorities to restrict the driving of any specified class of motor vehicle and also to restrict the driving of any class of motor vehicle below a minimum speed fixed for that class of vehicle on any public road*

26. That, Mischief rule of statutory interpretation is applied to find out what parliament meant when it was making law, in this case Section 115. Now Section 115 corresponds to section 74 of the Motor Vehicles Act, 1939 and at that time neither pollution was an issue nor the number of vehicles was an issue. So the act at that time meant anything except equating class with Odd Even Vehicle.
27. Hence, as per Federation of Delhi Bus Operators & Ors. .... Petitioners vs. Lt. Governor of Delhi & Ors. .... Respondents, **2011 SCC OnLine Del 1707 : (2011) 180 DLT 283 (DB)** ruling, literal and mischief rule of interpretation and Aadhaar Number, Animal Kingdom, All Alphabets Analogy , it crystal clear that the driving of motor vehicles or of any specified class or description of motor vehicles in no way whatsoever can bring Odd Even in the ambit of Class and Hence the Odd Even Notice of Govt of NCT of Delhi is arbitrary, irritational, unconstitutional, abuse of power, contrary to statutory provision Section 115(Power to restrict the use of vehicle) Motor Vehicle Act 1988 (59 of 1988)
1. That, petitioner like to add here that during Commonwealth Games in Late Mrs Shela Dixit Chief Minister Tenure, there was restriction on Vehicles(**Annexure-P3**) but it was on the basis of type of vehicles(Light Medium, Heavy Vehicles) and not on the basis of

Number Plate and Vote Bank, Gender, Class, Society etc. That restrictions was for specific class, specific road or area and for specific time and within the ambit of Section 115 of Motor Vehicle Act 1988 and Article 14, 15, 19, 21 of the Constitution of India

2. That, with 7.3 million two-wheelers registered in Delhi out of 11 Million Vehicles and more than a lakh crossing the city daily, the sheer volume of two-wheelers is humongous
3. That, Two-wheelers, which constitute over 7.3 million of the over 11.09 million registered vehicles in Delhi, were exempted from the 3<sup>rd</sup> Season of Odd Even Vehicle Scheme. The number of registered four-wheelers in the city stands at around 3.4 million.
4. That, “Engines of two-wheelers release more pollutants than four-wheelers. If these vehicles are not included in the scheme, the impact of the drive on the air-quality would be negligible. As assembly elections are approaching, it seems the government doesn’t want to take any risk. It is mindful of its popularity and vote bank,” said Ravinder Kumar, principal scientist, transportation and planning division of Central Road Research Institute (CRRI).
5. That, report in Business Standard (**Annexure-P4**) states that Delhi's air pollution rises 23% during second odd-even phase.
6. That, in Mahendra Pandey Vs. Govt. of NCT of Delhi & Ors in Original Application No. 179 of 2016, Order Date 18<sup>th</sup> October 2016 NGT(**Annexure-P5**) Observed that:

*Dr. M. P. George, Scientist D DPCC is present before the Tribunal in furtherance to the order passed by the Tribunal earlier. While referring to the report dated 17th August, 2016 that has been placed on record, he states*

*that the data collected shows that during the period of implementation of odd-even vehicle programme there was hardly any improvement in the ambient air quality of NCT of Delhi.*

*The report that has been placed on record on behalf of the DPCC shows that PM 2.5 levels were much higher during the period when odd-even programme was enforced PM 2.5 was 400  $\mu\text{g}/\text{m}^3$  while during the odd-even implementation period it was ranging from 600 to 700  $\mu\text{g}/\text{m}^3$ . Similarly, PM10 was higher during the relevant period and went up to 1200  $\mu\text{g}/\text{m}^3$ . The situation was not different in relation to NO<sub>2</sub>, CO, O<sub>3</sub>, SO<sub>2</sub>, C<sub>6</sub>H<sub>6</sub>, NH<sub>3</sub>. We have also examined the report and found that there was no material variation in the wind speed post and pre and during odd-even. Metrological condition in Delhi would obviously be the same during the months in question. On a fair analysis of the report submitted by the DPCC it is clear that odd-even scheme have not led to any substantial improvement in the ambient air quality of NCT, Delhi.*

The Learned Counsel appearing for the Central Pollution Control Board upon instructions from Mr. Sanjeev Kumar Sharma, Scientist, submits that their monitoring have also demonstrated that there has been no improvement in the ambient air quality during the periods when odd-even was enforced in NCT of Delhi. According to them the ambient air quality deteriorated during that

period and it is true in both the phases. Let this aspect be considered by the Tribunal and appropriate decision taken in that behalf.

7. Hence, three sources of Delhi air-quality data confirmed that the 1<sup>st</sup> and 2<sup>nd</sup> Phase of odd-even system did not lower pollution levels: The union government's Central Pollution Control Board (CPCB); the Delhi's government's Delhi Pollution Control Committee (DPCC); and IndiaSpend's Breathe network.
8. A lower middle class person after lot of sacrifices and when over 45-50 years, through his life saving, brings a 4 Wheeler(Car), a middle class person , takes a loan and bring a Car. To make their vote bank Happy Delhi Govt current Odd Even Scheme discriminates and takes Sadistic pleasure by robbing Lower Middle Class and Middle Class to drive their Cars to carry out their jobs/business thus causing great hardships. Rich people already have 2+ Odd and Even Number Cars after 1<sup>st</sup> Season of Odd Even Scheme
9. That, Every State action must be informed by reason and it follows that an act uninformed by reason, is arbitrary. Rule of law contemplates governance by laws and not by humour, whims or caprices of the men to whom the governance is entrusted for the time being. It is trite that be you ever so high, the laws are above you'. This is what men in power must remember, always. Almost a quarter century back, Hon'ble Apex Court in S.G. Jaisinghani v. Union of India and Ors., [1967] 2 SCR 703, at p.7 18-19, indicated the test of arbitrariness and the pitfalls to be avoided in all State actions to prevent that vice.

10. That, an authority, however, has to act properly for the purpose for which the power is conferred. He must take a decision in accordance with the provisions of the Act and the statutes. He must not be guided by extraneous or irrelevant consideration. He must not act illegally, irrationally or arbitrarily. Any such illegal, irrational or arbitrary action or decision, whether in the nature of legislative, administrative or quasi-judicial exercise of power is liable to be quashed being violative of Article 14 of the Constitution. *Neelima Misra Vs Harinder Kaur Paintal And Others* (AIR 1990 SC 1402)
11. That, the constitutional power conferred on the Government cannot be exercised by it arbitrarily or capriciously or in an unprincipled manner; it has to be exercised for the public good. Every activity of the Government has a public element in it and it must therefore, be informed with reason and guided by public interest. Every action taken by the Government must be in public interest; the Government cannot act arbitrarily and without reason and if it does, its action would be liable to be invalidated. In *Kasturi Lal Lakshmi Reddy vs. State of Jammu and Kashmir & another*
12. That, in legislations enacted for general benefit and common good the responsibility is far graver. It demands purposeful approach. The exercise of discretion should be objective. Test of reasonableness is more strict. The public functionaries should be duty conscious rather than power charged. Its actions and decisions which touch the common man have to be tested on the touchstone of fairness and justice. That which is not fair and just is unreasonable. And what is unreasonable is arbitrary. An arbitrary action is ultra vires. It does not become bona fide and in good faith merely because no personal gain

or benefit to the person exercising discretion should be established. An action is mala fide if it is contrary to the purpose for which it was authorised to be exercised. Dishonesty in discharge of duty vitiates the action without anything more. An action is bad even without proof of motive of dishonesty, if the authority is found to have acted contrary to reason. In *MAHESH CHANDRA Vs. REGIONAL MANAGER, U.P. FINANCIAL CORPORATION AND ORS* ( AIR 1993 SC 935)

13. That, it is now well-settled as a result of the decisions of this Court in *E. P. Rayappa v. State of Tamil Nadu*, and ..... the decisions of Apex Court in *E. P. Rayappa v. State of Tamil Nadu* (supra) therefore, and *Maneka Gandhi v. Union of India*, (1978) S.C. 248, that Art. 14 strikes at arbitrariness in State action and ensures fairness and equality of treatment. It requires that State action must not be arbitrary but must be based on some rational and relevant principle which is non-discriminatory: It must not be guided by any extraneous or irrelevant considerations, because that would be denial of equality. The principle of reasonableness and rationality which is legally as well as philosophically an essential element of equality or non-arbitrariness is projected by Art. 14 and it must characterize every State action, whether it be under authority of law or in exercise of executive power without making of law. The State cannot, therefore, act arbitrarily in entering into relationship, contractual or otherwise with a third party, but its action must conform to some standard or norm which is rational and non-discriminatory. In *Ramana Dayaram Shetty Vs International Airport Authority Of India And Others* (1979 AIR(SC) 1628 ) .

14. That, Delhi Govt Odd Even Scheme is being implemented to curb the Pollution, but it's clear that the cause and remedy is totally mismatched; 2 Wheelers that cause the maximum pollution has been exempted . CNG filled Private 4 Wheelers are not being exempted, there is discrimination based on Gender(Men Cant Drive but Women can drive), Even this scheme has created a separate class of Woman: one who can drive and one who can't drive a 4 wheeler(yes ban that woman and put it in Odd Even Category); this scheme take sadistic pleasure by robbing lower middle class and middle class their right to drive to earn their livelihood by doing their jobs/business by bracketing their 4 Wheelers in Odd Even
15. That, it clear from above Hon'ble Apex Court Judgements that Delhi Govt Odd Even Scheme is arbitrary, illegal, illogical, done capriciously in an unreasonable manner without adequately determining principle cause and remedy and solely for vote bank politics and need to struck down
16. That, while researching on Odd Even Issue, a very peculiar and disturbing thing came to the petitioner's notice. Stubble Burning (Parali) In Punjab and Haryana is one of the major reasons of Pollution and Smog in Delhi and NCR. Just before Diwali (that is 27<sup>th</sup> October 2019), there is 1200 incidents of Stubble Burning and Just after Diwali there was 923 incidents of Stubble Burning. There seems to be deliberate, intentional and strong correlation between timing of Stubble Burning, Stubble burning farmers and their political affiliations, political parties, Diwali, Air Purifiers and Mask making companies and timing of Odd Even Scheme .



## **GROUND**

- A. BECAUSE, Notification of Odd Even Vehicle Scheme is arbitrary, illogical, illegal, done capriciously in an unreasonable manner and unconstitutional that in the 12 days Odd Even period(from 4<sup>th</sup> November 2019 to 14<sup>th</sup> November 2019), it exclusively allows Odd Car to Ply on the road on 5, 7, 9, 11, 13, 15 that is 6 days and it exclusively allows Even Car to Ply on road on 4, 6, 8, 12, 14 that is 5 days. So only God knows why Odd Car are given preference. Odd Cars 6 days Vs Even Cars 5 days. Hence Odd Even Notification is ultra vires Article 14 and 15 of the Constitution of India. It shows that Odd Even is nothing but political and Vote Bank Gimmick as it has been done capriciously in an unreasonable manner.
- B. BECAUSE, Section 115 of Motor Vehicles Act 1988, (59 of 1988) of empowers the State Government and prescribed authorities to restrict the driving of any specified class of motor vehicle and also to restrict the driving of any class of motor vehicle below a minimum speed fixed for that class of vehicle on any public road. As per Federation of Delhi Bus Operators & Ors. vs. Lt. Governor of Delhi & Ors 2011 SCC OnLine Del 1707 : (2011) 180 DLT 283 (DB) ruling, literal and mischief rule of interpretation, it is crystal clear the expression used in section 115 of the said Act, “*any specified class or description of a motor vehicle*”, is in no way whatsoever can bring Odd Even in the ambit of Class as instead of restricting a specified class of vehicle, odd even goes on to Segregate the Vehicle on the basis of Number Plate which is not class and hence the Odd Even Notice of Govt of NCT of Delhi is arbitrary, irritational, unconstitutional, abuse of power,

contrary to statutory provision Section 115(Power to restrict the use of vehicle) Motor Vehicle Act 1988 (59 of 1988)

C. BECAUSE, Odd Even Vehicle Scheme violates Fundamental Rights of residents of Delhi and adjoining states residents who daily commute in/out of Delhi in their four wheeled vehicles (motor cars etc.) to do their jobs/business to earn their livelihood and is ultra vires Article 19(1)(g) of the Constitution of India

D. BECAUSE, three sources of Delhi air-quality data confirmed that the odd-even system did not lower pollution levels: The union government's Central Pollution Control Board (CPCB); the Delhi's government's Delhi Pollution Control Committee (DPCC); and IndiaSpend's Breathe network. Odd Even is nothing but political gimmick for self-promotion and advertisements in the smokescreen of curbing pollution.

E. BECAUSE, dates of ODD Even scheme was announced well in advance on 13<sup>th</sup> September 2019 but the advertisement given by Delhi Govt in Newspapers now-a-days say that "DELHI POLLUTION IS DOWN BY 25% BUT SMOKE FROM STUBBLE BURNING IS COMING TO DELHI SO ODD EVEN IS BEING INTRODUCED ONCE AGAIN". Delhi Govt is no Nostradamus, then how come it knows well in advance the when smoke from Stubble Burning will reach Delhi exactly around Odd Even Scheme Dates. There seems to be strong nexus between Stubble Burning Framers, Political Parties, Purifier Companies, mask making companies

F. BECAUSE, Stubble Burning (Parali) In Punjab and Haryana, in winter, is one of the major reason of Pollution and Smog in Delhi and NCR. Just one day before Diwali(27<sup>th</sup> October 2019), there was 1200

incidents of Stubble Burning and Just after Diwali there was 923 incidents of Stubble Burning. There seems to be deliberate, intentional and strong correlation between timing of Stubble Burning , Diwali, and timing of Odd Even Scheme.

G. BECAUSE, there is no scientific proof that a woman is more susceptible to the effect of Pollution, but Odd Even Scheme discriminate against Man and Woman on the basis of Gender thus violating Fundamental rights

H. BECAUSE, Odd Even Scheme exempt a woman who knows driving but woman who can't drive aren't exempted to let her driver or any other male members of her family to drive the 4 Wheeler (Car). Hence it differentiates a woman on the basis of her driving and is ultra vires Article 14 and 15 of the Constitution of India

I. BECAUSE, Odd Even Scheme takes sadistic pleasure by robbing lower middle class and middle class their right to drive to earn their livelihood by doing their jobs/business by bracketing their 4 Wheelers in Odd Even Scheme and pleasing the govt vote bank as it has been proved that 2 Wheelers cause more pollution than 4 wheelers (Motors, Cars)

J. BECAUSE, on the day of Odd Even Scheme, that is 4<sup>th</sup> November 2019 at 4:16PM, AQI(Air Quality Index) of New Delhi was 191[**Annexure-P6(Colly)**], whereas that of Noida was 170, Ghaziabad 167. Hence Odd Even is ineffective as without Odd Even Noida and Ghaziabad were far better than New Delhi. This was bound to happen as due to Vote Bank Politics Delhi Govt has excluded the Biggest Vehicle Pollution Culprit , that is , Two-Wheelers from odd Even Scheme.

- K. BECAUSE, the timing of Odd Even Scheme is 8AM to 8PM, people waited till 8 PM and there was huge surge. Hence, on 5/11/2019 at 1:16AM AQI level of Delhi was 321
- L. BECAUSE, due to Wind Speed change and other weather changes, on 6/11/2019 at 01:16 AM, the AQI of Delhi was 187, Noida 170, Gurugram 180, Ghaziabad 189. If the AQI of NCR Cities of Noida, Gurugram, Ghaziabad are same or less than Delhi without Odd Even, it means that odd even is Not Effective and this fact was stated in NGT by DPCC and CPCB that Phase 1 and 2 of Odd Even were Abject Failures as Votebank Politics, Advertisement was the main concern and curbing pollution was never the objective of Delhi Govt
- M. BECAUSE, Just 2 days after forming the Government in Delhi, Delhi Government Sweeps Away Green Check for Small Businesses in Delhi. Pollution check is a "major stumbling block" to the ease of doing business, said a statement from industries minister Satyendra Jain. Now the Govt is daily spending crores of rupees on advertisement self-praising itself which is nothing but irony and this done away of Environmental checks expose the Delhi Govt and shows real intention which is nothing anything but Curbing Pollution.
- N. BECAUSE, East and Western Peripherals Road(Outer Ring Roads so that vehicles going to other states doesn't enter Delhi) constructed at the cost of Rs 7000 + crores by centre took away 70000 trucks that used to enter Delhi every day thus reducing 12-15% of Pollution in Delhi. Delhi Govt didn't contributed in it but only God knows from where they get this figure that they have reduced pollution by 25%
- O. BECAUSE, on even days Delhi Govt releases large advertisement in paper and on TV, Radio that they have reduced pollution by 25% and

on Odd days they blame Parali and everything else for pollution. This is nothing but Smokescreen and Drama to fool the public.

P. BECAUSE, according to apportionment study commissioned by the Delhi Govt and conducted by IIT- Kanpur , Contribution to Delhi's pollution(PM 10 and PM 2.5) by Vehicle Types is : Trucks 46%, Two-Wheelers 33%, Cars 10%, Buses 5%, LCVs 4% but its 2 wheelers that are exempted.

Q. BECAUSE, Volume wise in Delhi, Two wheelers are 7.3 million in numbers whereas cars are 3.4 Millions in Numbers but its 2 wheelers that are exempted.

R. BECAUSE, Two Wheelers (Motorcycle, Scooter, Bikes etc) are BS-II standard and emit more pollution whereas 4 Wheelers are BS-IV Standard but its 2 wheelers that are exempted.

S. BECAUSE, Four wheelers can take 5 – 7 people whereas Two wheelers can take Maximum of 2 people, hence Four Wheelers are equal to average of 4 Two Wheelers but its 2 wheelers that are exempted.

T. BECAUSE, Private CNG vehicle are not exempted but Autos Taxi Cabs are exempted which are Vote Bank of the Delhi Govt.

U. BECAUSE, the Delhi government wanted to engage 2,000 extra buses during the odd-even scheme, but only 693 of them were operational on Tuesday 05/11/2019. Thus Odd Even is nothing but great hardship and inconvenience being faced by Residents of Delhi only because Delhi Govt in the election season want to Self promote itself in the guise of curbing pollution.

V. BECAUSE, Delhi Govt Odd Even Scheme is arbitrary, illogical, illegal, done capriciously in an unreasonable manner without

adequately determining principle cause and remedy and solely for vote bank politics and advertisement and promotion and need to struck down

W.BECAUSE, as per Govt the 3<sup>rd</sup> Season of Odd Even Scheme will have 5000+ Civil Defense Volunteer. Volunteer in Cambridge Dictionary means “*a person who does something, especially helping other people, willingly and without being forced or paid to do it*”. But the government has set aside ₹5 crore for the Civil Defense Volunteers’ emolument. In the second phase, it seems that around Rs 450 Per day per person was given to Civil Defense Volunteer. There was no advertisement given that 5000+ paid Volunteer job is up for grabs and no lottery system was used to pick up the paid volunteers (Civil Defense).

### **PRAYER**

In the view of the foregoing submissions, facts and circumstances, it is, therefore most humbly and respectfully prayed that this Hon'ble Court may be pleased:

1. To issue writ in the nature of certiorari or any or any other appropriate writ, order or directions, to the respondent declaring Odd-Even Scheme of Govt of NCT of Delhi, Notice No. 23(1549)/CAP/TPT/PCD/2019/1579/78617 dated 01/11/2019 as Void Ab Initio and Inoperative as it is arbitrary, irritational, unconstitutional, abuse of power, contrary to statutory provision Section 115(Power to restrict the use of vehicle) Motor Vehicle Act 1988 (59 of 1988) and Ultra Vires the fundamental rights -

equality before Law and equal protection of law prohibition of discrimination, all citizens shall have the right to practice any profession, or to carry on any occupation, trade or business and to move freely throughout the territory of India, equal opportunity in public employment, etc. guaranteed under Articles 14, 15, 19 and 21 of the Constitution of India.

2. Pass such other and further orders as this Hon'ble Court may deem just and proper in the facts and circumstances of the case.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

New Delhi  
/11/2019

[SANJJIIV KKUMAAR(ADV)]  
PETITIONER-IN-PERSON

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**WRIT PETITION (CIVIL) NO ..... OF 2019**

**IN THE MATTER OF:**

SANJJIIV KKUMAAR

...Petitioner

Verses

GOVT OF NCT OF DELHI

...respondent

**AFFIDAVIT**

I, SANJJIIV KKUMAAR aged 45 years, son of Sh. Ram Ashraya  
Residence at: Flat No – 522, Tower-J, Plot No GH04, Noida,  
201301, UP , do hereby solemnly affirm and declare as under:

1. I am the sole petitioner above named and well acquainted with facts and circumstances of the case and as such competent to swear this affidavit.
2. I have read and understood contents of accompanying synopsis and list of dates pages (B- E) writ petition paras (1- 43) pages (1- 19) and total pages (1- 24) which are true and correct to my knowledge and belief.
3. Annexure filed with the writ petition are True Copy of their Original
4. I have not filed any other petition either in this Hon'ble Court or in any other Court seeking same or similar directions as prayed in this petition.
5. I have no personal interests, individual gain, private motive or oblique reasons in filing this petition. It is not guided for gain of any other individual person, institution or body. The only motive is public interest.
6. There is no civil, criminal or revenue litigation, involving petitioner, which has or could have legal nexus, with issue involved in this petition.



7. There is no requirement to move concerned government authority for relief sought in this petition. There is no other remedy available except approaching this Hon'ble Court.
8. I have gone through the Article 32 and the Supreme Court Rules and do hereby affirm that the present petition is in conformity thereof.
9. I have done whatsoever enquiry/investigation, which was in my power to do, to collect the data or material, which was available; and which was relevant for this Hon'ble Court to entertain the present petition.
10. I've not concealed any data/material/information in this petition; which may have enabled this Hon'ble Court to form an opinion, whether to entertain this petition or not and/or whether to grant any relief or not.
11. The averments made in this affidavit are true and correct to my personal knowledge and belief. No part of this Affidavit is false or fabricated, nor has anything material been concealed there from.

(SANJJIIV KKUMAAR)

DEPONENT

**VERIFICATION**

I, the Deponent do hereby verify that the contents of above affidavit are true and correct to my personal knowledge and belief. No part of this affidavit is false nor has anything material been concealed there from.

I hereby solemnly affirm and declare it today i.e. the 06<sup>th</sup>  
day of November 2019 at New Delhi.

(SANJJIIV KKUMAAR)  
DEPONENT

## APPENDIX

### ARTICLE 14 IN THE CONSTITUTION OF INDIA

14. Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

### ARTICLE 15 IN THE CONSTITUTION OF INDIA

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to

(a) access to shops, public restaurants, hotels and palaces of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public

(3) Nothing in this article shall prevent the State from making any special provision for women and children

(4) Nothing in this article or in clause ( 2 ) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes

### ARTICLE 19 IN THE CONSTITUTION OF INDIA

19. Protection of certain rights regarding freedom of speech etc

(1) All citizens shall have the right

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India; and

(f)omitted

(g) to practise any profession, or to carry on any occupation, trade or business

(2) Nothing in sub clause (a) of clause ( 1 ) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of

the State, friendly relations with

foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence

(3) Nothing in sub clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub clause

(4) Nothing in sub clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub clause

(5) Nothing in sub clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe

(6) Nothing in sub clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub clause, and, in particular, nothing in the said sub clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise

## **ARTICLE 21 IN THE CONSTITUTION OF INDIA**

21. Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law

## SECTION 115 OF THE MOTOR VEHICLE ACT 1988

### 115. Power to restrict the use of vehicle-

The State Government or any authority authorised in this behalf by the State , if satisfied that it is necessary in the interest of public safety or convenience, or because of the nature of any road or bridge, may by notification in the Official Gazette, prohibit or restrict, subject to such exceptions and conditions as may be specified in the notification, the driving of motor vehicles or of any specified class or description of motor vehicles or the use of trailers either generally in a specified area or on a specified road and when any such prohibition or restriction is imposed, shall cause appropriate traffic signs to be placed or erected under section 116 at suitable places.

Provided that where any prohibition or restriction under this section is to remain in force for not more than one month, notification thereof in the Official Gazette shall not be necessary, but such local publicity as the circumstances may permit, shall be given of such prohibition or restriction.

Corresponding Law. – Section 115 corresponds to section 74 of the Motor Vehicles Act, 1939.

Objects and Reasons. – Clause 115 empowers the State Government and prescribed authorities to restrict the driving of any specified class of motor vehicle and also to restrict the driving of any class of motor vehicle below a minimum speed fixed for that class of vehicle on any public road

**IN THE SUPREME COURT OF INDIA**

**CIVIL ORIGINAL JURISDICTION**

I.A NO.                      of 2019

WRIT PETITION (CIVIL) NO        OF 2019

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

**IN THE MATTER OF:**

SANJJIIV KKUMAAR

...PETITIONER

VERSES

GOVT OF NCT OF DELHI

...RESPONDENT

**APPLICATION FOR DIRECTION**

To

THE HON'BLE CHIEF JUSTICE OF INDIA AND LORDSHIP'S  
COMPANION JUSTICES OF THE HON'BLE SUPREME  
COURT OF INDIA

THE HUMBLE PETITION OF THE  
PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The Petitioners have filed the above writ petition in public interest.
2. The Petitioner has stated the relevant facts elaborately in the Writ Petition. For the sake of brevity, the same is not repeated in the present application. The Petitioner, however, crave leave to refer to and rely on the same at the time of the hearing of the present application as if the same formed part of the present application.

3. That, Odd-Even Scheme of Govt of NCT of Delhi ,Notice No. 23(1549)/CAP/TPT/PCD/2019/1579/78617(Annexure-P1) dated 01/11/2019, as it arbitrary, irritational, unconstitutional, abuse of power, contrary to statutory provision Section 115(Power to restrict the use of vehicle) Motor Vehicle Act 1988 (59 of 1988) and ultra vires fundamental rights - equality before Law and equal protection of law (Article 14 of the Constitution of India), prohibition of discrimination (Article 15 of the Constitution of India), all citizens shall have the right to practice any profession, or to carry on any occupation, trade or business and to move freely throughout the territory of India (Article 19[1][g] & 19[1][d]of the Constitution of India) equal opportunity in public employment, etc. guaranteed under Articles 14, 15, 19 and 21 of the Constitution of India. Hence, the said Odd Even Notice may be declared as void ab initio and inoperative.
4. Notification of Odd Even Vehicle Scheme is arbitrary, illogical, illegal, done capriciously in an unreasonable manner and unconstitutional that in the 12 days Odd Even period(from 4<sup>th</sup> November 2019 to 14<sup>th</sup> November 2019), it exclusively allows Odd Car to Ply on the road on 5, 7, 9, 11, 13, 15 that is 6 days and it exclusively allows Even Car to Ply on road on 4, 6, 8, 12, 14 that is 5 days. So only God knows why Odd Car are given preference. Odd Cars 6 days Vs Even Cars 5 days. Hence Odd Even Notification is ultra vires Article 14 and 15 of the Constitution of India. It shows that Odd Even is nothing but political and Vote Bank Gimmick as it has been done capriciously in an unreasonable manner.
5. Notification of Odd Even Vehicle Scheme is arbitrary, illogical, illegal, done capriciously in an unreasonable manner and unconstitutional that

in the 12 days Odd Even period(from 4<sup>th</sup> November 2019 to 14<sup>th</sup> November 2019), it exclusively allows Odd Car to Ply on the road on 5, 7, 9, 11, 13, 15 that is 6 days and it exclusively allows Even Car to Ply on road on 4, 6, 8, 12, 14 that is 5 days. So only God knows why Odd Car are given preference. Odd Cars 6 days Vs Even Cars 5 days. Hence Odd Even Notification is ultra vires Article 14 and 15 of the Constitution of India. It shows that Odd Even is nothing but political and Vote Bank Gimmick as it has been done capriciously in an unreasonable manner.

6. Three sources of Delhi air-quality data confirmed that the odd-even system did not lower pollution levels: The union government's Central Pollution Control Board (CPCB); the Delhi's government's Delhi Pollution Control Committee (DPCC); and IndiaSpend's Breathe network. Odd Even is nothing but political gimmick for self-promotion and advertisements in the smokescreen of curbing pollution.
7. Odd Even Vehicle Scheme violates Fundamental Rights of residents of Delhi and adjoining states residents who daily commute in/out of Delhi in their four wheeled vehicles (motor cars etc.) to do their jobs/business to earn their livelihood and is ultra vires Article 19(1)(g) of the Constitution of India
8. Odd Even Scheme takes sadistic pleasure by robbing lower middle class and middle class their right to drive to earn their livelihood by doing their jobs/business by bracketing their 4 Wheelers in Odd Even Scheme and pleasing the govt vote bank as it has been proved that 2 Wheelers cause more pollution than 4 wheelers (Motors, Cars)
9. On the day of Odd Even Scheme, that is 4<sup>th</sup> November 2019 at 4:16PM, AQI(Air Quality Index) of New Delhi was 191[**Annexure-P6(Colly)**],



whereas that of Noida was 170, Ghaziabad 167. Hence Odd Even is ineffective as without Odd Even Noida and Ghaziabad were far better than New Delhi. This was bound to happen as due to Vote Bank Politics Delhi Govt has excluded the Biggest Vehicle Pollution Culprit , that is , Two-Wheelers from odd Even Scheme.

10. Due to Wind Speed change and other weather changes, on 6/11/2019 at 01:16 AM , the AQI of Delhi was 187, Noida 170, Gurugram 180, Ghaziabad 189. If the AQI of NCR Cities of Noida, Gurugram, Ghaziabad are same or less than Delhi without Odd Even , it means that odd even is Not Effective and this fact was stated in NGT by DPCC and CPCB that Phase 1 and 2 of Odd Even were Abject Failures as Votebank Politics, Advertisement was the main concern and curbing pollution was never the objective of Delhi Govt
11. That there exists a prima-facie case in favour of the Petitioner as the same is in the interest of the public at large.
12. That the Public at large shall suffer irreparable loss and injury in case of the interim order as prayed is not granted in its favour.
13. The Application for Interim Directions is filed in the interest of justice.

### **PRAYER**

The Petitioner, therefore, prays that in the facts and circumstances of the present case and during the pendency of the Writ Petition this Hon'ble Court may be pleased to:

1. Stay the execution of Odd Even Vehicle Scheme during the pendency of the present petition,
2. Pass such other and further orders as this Hon'ble Court may deem just and proper in the facts and circumstances of the case.

FOR WHICH ACT OF KINDNESS, THE PETITIONER SHALL AS IN  
DUTY BOUND, EVER PRAY.

PETITIONERS IN PERSON: MR. SANJJIIV KKUMAAR  
ADVOCATE

FLAT NO - 522, TOWER-J, PLOT NO-GH04,  
SECTOR-119, NOIDA, 201301, UTTAR PRADESH

Mo: 9013465694, Email: legal@

DATED: 06/11/2019  
PLACE: NEW DELHI

**IN THE SUPREME COURT OF INDIA**

**CIVIL ORIGINAL JURISDICTION**

I.A NO.                      of 2019

WRIT PETITION (CIVIL) NO        OF 2019

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

**IN THE MATTER OF:**

SANJJIIV KKUMAAR

...PETITIONER

VERSES

GOVT OF NCT OF DELHI

...RESPONDENT

**AFFIDAVIT**

I, Sanjjiiv Kkumaar, aged about 45 years, s/o Dr Ram Ashraya & Mrs Manju, a resident of Flat No – 522, Tower-J, Plot No GH04, Noida, 201301, UP, presently at New Delhi, do hereby solemnly affirm and declare as under:

1. That I am Petitioner in the above matter and am fully acquainted with the facts of the instant case and fully competent to swear thereto.
2. I have done whatsoever inquiry/investigation which was in my power to do, to collect all data /material which was available and which was relevant for the court to entertain the present petition. I further confirm that I have not concealed in the present petition any data/material/information which may have enabled this court to form an opinion whether to entertain the APPLICATION or not and/or whether to grant any relief or not.
3. That, the accompanying application has been drafted by me and the contents of the same are true and correct to my knowledge and belief

DEPONENT

VERIFICATION: Verified at Delhi on this \_\_\_\_\_ day of \_\_\_\_\_ 2019  
that the facts stated in paras 1 to 3 hereinabove are true to my personal  
knowledge, no part of this Affidavit is false and nothing material is  
concealed therefrom.

DEPONENT