

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO OF 2019

(PIL UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

ASHWINI KUMAR UPADHYAY

...PETITIONER

VERSES

UNION OF INDIA & ANOTHER

...RESPONDENTS

PAPER BOOK

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(ADVOCATE FOR PETITIONER : ASHWANI KUMAR DUBEY)

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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: Article 14 of the Constitution
- Central Rule: N/A
- Rule No: N/A
- 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

1. Nature of Matter: Civil

2. (a) Petitioner / Appellant : Ashwini Kumar Upadhyay

(b) Email ID: aku.adv@gmail.com

(c) Phone No: 8800278866,

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

(b) Email ID: N/A

(c) Phone No: N/A

4. (a) Main Category: o8 PIL Matters

(b) Sub Category: 812, Others

5. Not to be listed before: N/A

6(a). Similar disposed of matter: No Similar Matter disposed off

6(b). Similar pending matter: SMW(C) 01/2017, WP(C) 643/2015

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

Date: 10.12.2019

ADVOCATE FOR PETITIONER

(ASHWANI KUMAR DUBEY)

Advocate-on-Record

Registration Code No-1797

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9818685007, 011-22787061, 45118563

SYNOPSIS

Petitioner is filing this PIL under Article 32 to establish a Central Selection Mechanism for appointment of Judges in Subordinate Judiciary & declaration that Judiciary is a specialized field hence Judges shall be appointed on merit.

There is an unease and disquiet about competence and commitment to public service of several judges, particularly in subordinate judiciary. If these challenges are not recognized and reforms are not initiated with a great sense of urgency and devotion, judiciary may also fall in public esteem endangering the whole civil society and adversely affecting public good.

Judiciary should recognize that it is organ of State with sole objective of serving the people in efficient and accountable manner. Its loyalty should only be for public good and speedy justice and not to the convenience of advocates or politicians/bureaucrats. We are fortunate that several outstanding judges over the decades have ensured that judiciary can function in an independent and fearless manner. The time has now come when concerted efforts should be made to make judiciary efficient without usurping the functions of the other organs of State. What is needed is a substantial increase in the number of judges in subordinate courts giving access to the ordinary people.

The Courts cannot be faulted for failure of speedy justice system. In fact, judges are bearing enormous burden with inadequate resources. There are only about 11 judges in India per million populations, which is among the lowest ratios in the world. In contrast, the OECD countries have 115 judges per million population on an average. Germany, with only about 80 million population, has nearly 35,000 judges of all varieties put together, almost double the number we have in India with around 1.5 billion population.

Law Commission in its report on manpower planning (1987) pointed out that judge–population ratio was 10.05 per million people as against 50.09 in UK, 57.07 in Australia, 75.02 in Canada and 107 in US. Sanctioned strength is only 15,000, as against the requirement of 75,000. Out of this, many posts are vacant. The statistics relating to pendency of cases in various courts are revealing that with exception of Apex Court, where pendency is decreasing in recent years, courts at all other levels are overburdened with case load. More than 2 lakh cases have been pending for over 25 years in subordinate courts.

Failure of justice system especially criminal justice system has several disastrous implications in society. Proper function of a government is to make it easy for the people to do good and difficult for them to do evil. The only sanction to ensure good conduct and to prevent bad behavior in society is swift punishment. In the absence of the State's capacity to enforce the rule of law and to mete out justice, rule of law has all but collapsed. Even in civil matters, sanctity of contracts and agreements has lost its relevance because of Courts incapacity to adjudicate in a time bound manner.

Equality before law and Equal protect of Law, though constitutionally guaranteed, has remained a notional concept on paper. In reality, vast masses are relegated to margins of society in the absence of efficient justice system. Creation of CSM is low-cost high-impact reform long overdue. There are other steps required to make justice system workable. However, improving quality and enhancing prestige and dignity of judicial service and promoting competition in recruitment is a relatively simple measure around which there is notable consensus. It's high time to create a CSM, after 5 decades of recommendation by LCI and 4 decades of 42nd Constitutional Amendment.

Extra-legal mechanism for redress of the grievances and for providing rough and ready justice have sprung up all over the country. The foremost cause for increasing criminalization of society and politics is failure of justice system. An efficient and independent judiciary is the essence of civilization. However, our judiciary, by its nature, has become ponderous, excruciatingly slow and inefficient. Imposition of an alien system, with archaic and dilatory procedures, proved to be extremely damaging to our governance and society. The progress of a civil suit in our courts of law is the closest thing to eternity we can experience. Our laws and their interpretation and adjudication led to enormous misery for the litigants and forced people to look for extra-legal alternatives. Any one, who is even remotely exposed to the problem of land grabbing in our cities, or a house owner who finds it virtually impossible to evict a tenant after due notice even for self-occupation; can easily understand how the justice system failed. Election Commission of India estimates that around 43% legislators have criminal records against them. Even if heroic efforts are made to disqualify all these persons with criminal record from contesting, it will take another 10 years. Thus, the problem will continue to grow unless justice administration improves comprehensively.

Articles 21 and 39A of the Constitution of India recognizes the right of fair and speedy trial and free legal aid thus it is duty of the State to provide such judicial infrastructure and means of access to justice system so that every person is able to receive speedy, economical and fair trial. Plea of financial limitations can hardly be justified as a valid excuse to avoid performance of constitutional duty of the State, more particularly, when such rights are accepted as fundamental to the governance of country.

People are fast losing faith in judiciary because of the inordinate delay in disposal of the cases. The authorities concern should do the needful in the matter urgently to ensure speedy disposal of cases if people's faith in the judiciary is to remain. Unduly long delay has the effect of bringing about blatant violation of the rule of law and adverse impact on the common man's access to justice. A person's access to justice is guaranteed fundamental. Denial of this right undermines public confidence in justice delivery system and incentivizes people to look for shortcuts and other for a whether they feel that justice will be done quicker. This weakens justice delivery system and poses a threat to the rule of law. Access to justice must be understood to mean qualitative access to justice as well. It is, therefore, much more than improving individual's access to the Courts or guaranteeing representation. It must be defined in terms of insuring legal judicial outcomes.

Uniformity and transparency in the selection process will definitely improve the quality of judges. CSM will ensure fair transparent and credible selection process. It will attract the best prospective Advocates to judiciary, who otherwise prefer employment in corporate sector. Comprehensive training in National Judicial Academy would not only ensure uniform service conditions besides providing them wider field to prove their mettle but also secure fair trial and speedy justice in spirit of the Article 21.

It is high time to establish CSM in spirit of Article 312 and direction of the Apex Court in All India Judges Case (AIR 1992 SC 165). The Court said: *"We are of the view that the Law Commission's recommendation should not have been dropped lightly. There is considerable force and merit in the view expressed by the Law Commission. An All India Judicial Service essentially for*

manning the higher services in the subordinate judiciary is very much necessary. The reasons advanced by the Law Commission for recommending the setting up of an All India Judicial Service appeal to us. Since the setting up of such a service might require amendment of the relevant Articles of the Constitution and Service Rules operating in different States, we do not intend to give any particular direction on this score, particularly, when the point was not seriously pressed, but we would commend to Union of India to undertake appropriate exercise quickly so that the feasibility of implementation of the recommendations of the Law Commission may be examined expeditiously and implemented as early as possible. It is in the interest of the health of the judiciary throughout the country that this should be done.”

Petitioner suggests that: (i) CSM should constitute in cadre of District Judge (ii) Selection should be done at all India level (iii) Qualification should be in conformity of Article 233(2), minimum 7 years practice as an Advocate. (iv) Service Judges should be allowed to compete (v) 50% of District Judges should be earmarked for CSM. (vi) Age limit should be between 30-40 years (vii) Procedure for selection should be written examination followed by viva. (viii) Appointment: CSM, after selecting candidates for recruitment to the cadre of District Judges, allocate to the States/UTs, the candidates equal to the vacancies that are surrendered by them. The respective High Court thereupon will recommend those names to Governor for appointment as per Article 233. (ix) Training: three years training after appointment. (x) Seniority: All India Seniority as per ranking in select list (xi) Inter-se Seniority in State/UT: The inter-se seniority between direct recruits and promotees must be determined according to the date of allotment and date of promotion. (xii) Such direct

recruits should be annexed to the respective State Judicial Service within three-tier system. (xiii) Court Language: Recording of deposition should be in two languages (a) State language (to be recorded by the Court Officer); and (b) English (by the Presiding Officer).

List of Dates

- 03.01.1977: IJS was inserted in Article 312 by the Constitution (Forty-second Amendment) Act 1976. Purpose of the amendment was to ensure uniformity of standards in judicial service, status, emoluments etc. and to attract the best talent in judiciary so that right of fair trial and speedy justice made available to all citizens.
- 12.08.1986: Law Commission submitted its 114th Report namely “Alternative Forum for Resolution of Disputes at Grass Root Level” to the government and recommended to establish “Gram Nyayalaya”.
- 27.11.1986: Law Commission submitted its 116th Report namely “Formation of All India Judicial Service” to the Centre Government.
- 06.10.1993: Supreme Court held the system of Collegium for appointment of judges as an extra constitutional body in second judges’ case. (Advocates-on-Record Association v Union of India)
- 30.04.2009: Law Commission submitted its 221st Report “Need for Speedy Justice” and suggested amendments in CPC, CrPC and TPA-1882.
- 05.08.2009: LCI submitted its 230th Report “Reform in the Judiciary” and proposed measures to ensure fair trial and speedy justice.
- 25.10.2009: Resolution to reduce pendency of cases to 3 years and to establish IJS was adopted in “National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays”.

- 06.08.2012: Three distinguished Judges, Justice M.N. Venkatachaliah, Justice J.S. Verma and Justice Krishna Iyer, endorsed constitution of IJS.
- 09.12.2013: Department related Parliamentary Standing Committee on Personnel Public Grievances Law and Justice presented its 64th Report to the Rajya Sabha and endorsed the constitution of IJS.
- 19.05.2014: Hon'ble Chief Justice Justice R.M. Lodha said: *"Setting up of Indian Judicial Service, being planned by the government on the lines of IAS and IPS for recruiting judges for subordinate courts, should be given serious thought. National consensus is lacking as some States have raised reservations on the framework of Indian Judicial Service. Those States should also be brought on board"*.
- 07.07.2014: LCI submitted its 245th Report (Arrears and Backlog: Creating Additional Judicial Manpower) to the Government. However, the Executive has yet not implemented the recommendations.
- 31.12.2014: Parliament passed the Constitution (99th Amendment) Act 2014 and National Judicial Appointment Commission Act, 2014.
- 13.04.2015: Union Government notified the Constitution (99th Amendment) Act 2014 & National Judicial Appointment Commission Act 2014.
- 16.10.2015: Constitution Bench declared the Constitution (99th Amendment) Act 2014 and the NJAC Act 2014 unconstitutional.
- 03.11.2015: CB started hearing suggestions for improvement of the collegium.
- 05.11.2015: Petitioner submitted his suggestions before Constitution Bench.
- 20.06.2016: Petitioner submitted representation to Union Law Minister.
- 10.12.2019: CSM is essential for fair trial and speedy justice but Executive has not taken appropriate steps till date. Hence, this PIL.

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

IN THE MATTER OF:

Ashwini Kumar Upadhyay

S/o Sh. Suresh Chandra Upadhyay

(Off: 15, M.C. Setalvad Chambers Block

Supreme Court of India, New Delhi-110001)

Res: G-284, Govindpuram, Ghaziabad, 201013

.....Petitioner

Versus

1. Union of India
Through the Secretary
Ministry of Law and Justice
Shastri Bhawan, New Delhi-110001
2. The Supreme Court of India
Through its Secretary General
Tilak Marg, New Delhi - 110201
3. The High Court of Meghalaya
Through its Registrar General
MG Road, Police Bazar, Shillong, 793001
4. The High Court of Kerala
Through its Registrar General
Ernakulam- 682031
5. The High Court of Punjab & Haryana
Through its Registrar General
Sector-1, Chandigarh 160001
6. The High Court of Allahabad
Through its Registrar General
Prayagraj Uttar Pradesh – 211001
7. The High Court of Jammu & Kashmir
Through its Registrar General
Srinagar, Jammu & Kashmir – 190009
8. The High Court of Karnataka
Through its Registrar General
Bengaluru – 560001
9. The High Court at Calcutta
Through its Registrar General
Kolkata – 700001

- 10.** The High Court of Gujarat
Through its Registrar General
Sola, Ahmedabad 380060
- 11.** The High Court of Bombay
Through its Registrar General
Fort Mumbai – 400032
- 12.** The High Court of Chhattisgarh
Through its Registrar General
Bilaspur – 495220
- 13.** The High Court of Judicature at Hyderabad
Through its Registrar General
Telangana 500066
- 14.** The High Court of Uttarakhand
Through its Registrar General
Nainital – 263002
- 15.** The High Court of Himachal Pradesh
Through its Registrar General
Ravenswood, Shimla – 171001
- 16.** The High Court of Madhya Pradesh
Through its Registrar General
Jabalpur – 482001
- 17.** The High Court of Manipur
Through its Registrar General
Mantripukhri – 795002
- 18.** The Orissa High Court
Through its Registrar General
Cuttack, Odisha – 753002
- 19.** The High Court of Delhi
Through its Registrar General
New Delhi – 110503
- 20.** The Gauhati High Court
Through its Registrar General
Guwahati – 781001
- 21.** The High Court of Patna
Through its Registrar General
Patna, Bihar – 800028
- 22.** The High Court of Tripura
Through its Registrar General
Tripura - 799 010
- 23.** The Madras High Court
Through its Registrar General
Chennai – 600104

24. The Jharkhand High Court
Through its Registrar General
Doranda, Ranchi - 834033
25. The High Court of Sikkim
Through its Registrar General
Gangtok, East Sikkim - 737101
26. The Rajasthan High Court
Through its Registrar General
High Court Road, Paota, Jodhpur,
Rajasthan - 342005

...Respondents

**PIL TO ESTABLISH CENTRAL SELECTION MECHANISM (CSM) FOR APPOINTMENT
OF JUDGES IN SUBORDINATE JUDICIARY AND A DECLARATION THAT JUDICIARY
IS A SPECIALIZED FIELD HENCE JUDGES SHALL BE APPOINTED ON MERIT ONLY**

To,

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

HUMBLE PETITION OF ABOVE-NAMED PETITIONER

THE MOST RESPECTFULLY SHOWETH AS THE UNDER:

1. Petitioner is filing this writ petition as a PIL under Article 32 to establish a Central Selection Mechanism for Subordinate Judiciary and a declaration that Judiciary is a specialized field hence Judges shall be appointed on merit only
2. Petitioner has not filed any other petition either in this Hon'ble Court or in any other Court seeking same or similar directions.
3. Petitioner's full name is Ashwini Kumar Upadhyay. Residence: G-284, Govindpuram, Ghaziabad, 201013. Ph: 8800278866, aku.adv@gmail.com, PAN: AAVPU7330G, AADHAAR-659982174779. Annual Income is Rs. 4 LPA. Petitioner is an Advocate and socio-political activist, contributing his best to the development of socio-economically downtrodden people.

4. The facts constituting cause of action accrued on 09.12.2013 and on subsequent day, when Department related Parliament Standing Committee proposed constitution for the same but Executive did nothing till date.
5. Article 14 secures equality before law and equal protection of Laws. Article 15 prohibits discrimination on ground of religion race caste. Article 16 provides equal opportunity in matter of public employment but till date, there is no central selection mechanism for subordinate judiciary, thus causes injury.
6. Petitioner has no personal interests, individual gain, private motive or oblique reasons in filing this petition. It is totally bonafide and not guided by the gain of any other individual, institution or body.
7. There is no civil, criminal or revenue litigation, involving the petitioner, which has or could have legal nexus, with the issue involved in this petition.
8. There is no requirement to move the Government authorities as they are well aware about the Law Commission Reports & Judgment of this Hon'ble Court.
9. CSM isn't only necessary to secure fair trial and speedy justice but also vital to enhance transparency. At present, there is no effective mechanism to address complaints of misconduct and malpractice on part of the Judges. The Apex Court Constitution Bench directed Union to frame new Memorandum of Procedure for appointment of Judges considering the suggestions in this regard and specifically observed four key areas namely: (i) Transparency, (ii) Collegium Secretariat, (iii) Eligibility Criteria and (iv) Complaints. However, appointments are being done without the compliance of the directives of this Hon'ble Court in NJAC Case. What is paramount importance is a Central Selection Mechanism for appointment of Judges in subordinate judiciary, in the most transparent and fairest possible way, in spirit of Articles 14-16.

- 10.** Petitioner is filing the petition under Article 32 to establish a Central Selection Mechanism (CSM) for Subordinate Judiciary and also seeking a declaration that Judiciary is a specialized field hence Judges shall be appointed on merit only. There is an unease and disquiet about competence and commitment to public service of several judges, particularly in subordinate judiciary. If these challenges are not recognized and reforms are not initiated with a great sense of urgency and devotion, judiciary may also fall in public esteem endangering the whole civil society and adversely affecting public good.
- 11.** Judiciary should recognize that it is an organ of State with sole objective of serving the people in efficient and accountable manner. Its loyalty should only be for public good and speedy justice and not to the convenience of advocates or politicians or bureaucrats. We are fortunate that several outstanding judges over the decades have ensured that the judiciary can function in an independent and fearless manner. The time has now come when concerted efforts should be made to make judiciary efficient without usurping the functions of the other organs of State. What is needed is a substantial increase in the number of judges in subordinate courts giving access to the ordinary people and attract best talent in judiciary.
- 12.** The Courts cannot be faulted for failure of speedy justice system. In fact, judges are bearing enormous burden with inadequate resources. There are only about 11 judges in India per million populations, which is among the lowest ratios in the world. In contrast, the OECD countries have 115 judges per million population on an average. Germany, with only about 80 million population, has nearly 35,000 judges of all varieties put together, almost double the number we have in India with around 1.5 billion population.

- 13.** Law Commission in its report on manpower planning (1987) pointed out that judge–population ratio was 10.05 per million people as against 50.09 in UK, 57.07 in Australia, 75.02 in Canada and 107 in US. Sanctioned strength is only 15,000, as against the requirement of 75,000. Out of this, many posts are vacant. The statistics relating to pendency of cases in various courts are revealing that with exception of Apex Court, where pendency is decreasing in recent years, courts at all other levels are overburdened with case load. More than 2 lakh cases have been pending for over 25 years in subordinate courts.
- 14.** Failure of justice system especially criminal justice system has several disastrous implications in society. Proper function of a government is to make it easy for the people to do good and difficult for them to do evil. The only sanction to ensure good conduct and to prevent bad behavior in society is swift punishment. In the absence of the State’s capacity to enforce the rule of law and to mete out justice, rule of law has all but collapsed. Even in civil matters, sanctity of contracts and agreements has lost its relevance because of Courts incapacity to adjudicate in a time bound manner.
- 15.** Equality before law and Equal protect of Law, though constitutionally guaranteed, has remained a notional concept on paper. In reality, vast masses are relegated to margins of society in the absence of efficient justice system. Creation of CSM is low-cost high-impact reform long overdue. There are other steps required to make justice system workable. However, improving quality and enhancing prestige and dignity of judicial service and promoting competition in recruitment is a relatively simple measure around which there is notable consensus. It’s high time to create CSM, after 5 decades of recommendation by LCI and 04 decades of 42nd Constitutional Amendment.

- 16.** Extra-legal mechanism for redress of the grievances and for providing rough and ready justice have sprung up all over the country. The foremost cause for increasing criminalization of society and politics is failure of justice system. An efficient and independent judiciary is the essence of civilization. However, our judiciary, by its nature, has become ponderous, excruciatingly slow and inefficient. Imposition of an alien system, with archaic and dilatory procedures, proved to be extremely damaging to our governance and society. The progress of a civil suit in our courts of law is the closest thing to eternity we can experience. Our laws and their interpretation and adjudication led to enormous misery for the litigants and forced people to look for extra-legal alternatives. Any one, who is even remotely exposed to the problem of land grabbing in our cities, or a house owner who finds it virtually impossible to evict a tenant after due notice even for self-occupation; can easily understand how the justice system failed. Election Commission of India estimates that around 43% legislators have criminal records against them. Even if heroic efforts are made to disqualify all these persons with criminal record from contesting, it will take another 10 years. Thus, the problem will continue to grow unless justice administration improves comprehensively.
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18. People are fast losing faith in judiciary because of the inordinate delay in disposal of the cases. The authorities concerned should do the needful in the matter urgently to ensure speedy disposal of cases if people's faith in the judiciary is to remain. Unduly long delay has the effect of bringing about blatant violation of the rule of law and adverse impact on the common man's access to justice. A person's access to justice is guaranteed fundamental. Denial of this right undermines public confidence in justice delivery system and incentivizes people to look for shortcuts and other for a whether they feel that justice will be done quicker. This weakens justice delivery system and poses a threat to the rule of law. Access to justice must be understood to mean qualitative access to justice as well. It is, therefore, much more than improving individual's access to the Courts or guaranteeing representation. It must be defined in terms of insuring legal judicial outcomes.

19. Uniformity and transparency in the selection process will definitely improve the quality of judges. CSM will ensure fair transparent and credible selection process. It will attract the best prospective Advocates to judiciary, who otherwise prefer employment in corporate sector. Comprehensive training in National Judicial Academy would not only ensure uniform service conditions besides providing them wider field to prove their mettle but also secure fair trial and speedy justice in spirit of the Article 21.

20. It is high time to establish CSM in spirit of Article 312 and direction of the Apex Court in All India Judges Case (AIR 1992 SC 165). The Court said: *"We are of the view that the Law Commission's recommendation should not have been dropped lightly. There is considerable force and merit in the view expressed by the Law Commission. An All India Judicial Service essentially for*

manning the higher services in the subordinate judiciary is very much necessary. The reasons advanced by the Law Commission for recommending the setting up of an All India Judicial Service appeal to us. Since the setting up of such a service might require amendment of the relevant Articles of the Constitution and Service Rules operating in different States, we do not intend to give any particular direction on this score, particularly, when the point was not seriously pressed, but we would commend to Union of India to undertake appropriate exercise quickly so that the feasibility of implementation of the recommendations of the Law Commission may be examined expeditiously and implemented as early as possible. It is in the interest of the health of the judiciary throughout the country that this should be done.”

- 21.** Petitioner suggests that: (i) CSM should constitute in cadre of District Judge (ii) Selection should be done at all India level (iii) Qualification should be in conformity of Article 233(2), minimum 7 years practice as an Advocate. (iv) Service Judges should be allowed to compete (v) 50% of District Judges should be earmarked for CSM. (vi) Age limit should be between 30-40 years (vii) Procedure for selection should be written examination followed by viva. (viii) Appointment: CSM, after selecting candidates for recruitment to the cadre of District Judges, allocate to the States/UTs, the candidates equal to the vacancies that are surrendered by them. The respective High Court thereupon will recommend those names to Governor for appointment as per Article 233. (ix) Training: three years training after appointment. (x) Seniority: All India Seniority as per ranking in select list (xi) Inter-se Seniority in State/UT: The inter-se seniority between direct recruits and promotees must be determined according to the date of allotment and date of promotion. (xii) Such direct

recruits should be annexed to the respective State Judicial Service within three-tier system. (xiii) Court Language: Recording of deposition should be in two languages (a) State language (to be recorded by the Court Officer); and (b) English (by the Presiding Officer).

22. Invitation of applications and open and transparent selection process of appointment is basic need of an independent judiciary. Vacancies of the Judges should be advertised at least six months in advance. Creation of a Judicial Ombudsman or such other mechanism as contemplated in Judicial Standards and Accountability Bill 2012; or the Charter/Resolution called the “Restatement of Values of Judicial Life”, passed by the Apex Court, in its full court meeting held on 07.05.1997, which was ratified and adopted in the Chief Justices Conference 1999 or any other meaningful mechanism, where grievances against the Judge could be addressed is urgently needed. Audio / video-recording of proceedings of the Courts is also need of the day and it will definitely enhance transparency and accountability in judiciary. The transfer policy, which was described by the Constitution Bench in First Judges case as a panacea for allegations of nepotism and conflict of interest should be introduced without delay. It is necessary to end “Uncle *Judge Syndrome*” by transferring the Judges whose blood relatives are practicing in the very same Court. Judges should not be posted in the same High Court where they have practiced. It will not only enhance the credibility of judiciary but also instill confidence among public at large and particularly among Advocates.

23. When a blood relative of an IAS officer becomes an IAS officer or blood relative of an Army officer becomes an Army officer, no one doubts his character, commitment, conviction, courage and competence. However, when

blood relative of a Judge becomes Judge, people start talking about nepotism. CSM is the best remedy of this problem. Law Commission has thrice - in its 1st, 8th and 116th Report called for IJS. Parliamentary Standing Committee in its 64th Report on Law and Justice recommended to establish IJS. The first National Judicial Pay Commission and National Advisory Council to the Union Government have endorsed IJS. On 25.10.2009, Union Government presented a Resolution in this regard. The Apex Court has also endorsed creation of IJS. [AIJA vs UOI, AIR 1992 SC 165; (1993) 4 SCC 288; (1997) 8 SCC 520; AIR 1999 SC 1555]. Over and above, Article 312 explicitly provides for creation of IJS. However, in spite of all these, Government gives lame excuses and sleeping over the matter. As of now, while the most government departments have 'All India Service' recruits, Judiciary is the only setup that does not have a national level selection process to attract the best Advocates.

24. To advertise vacancies, to invite applications, to establish a secretariat, to scrutinize those applications and to short-list them, to select the candidates on a tentative basis, to notify such selection and to invite objections and complaints from the public at large is within the directives of the Constitution Bench. What is paramount importance is an independent and transparent system for appointment of the judges, by which Judges are selected in the most transparent and fairest possible way. System should be such that it instills confidence among public at large and particularly among Advocates, that the Judges are not selected in an opaque manner but taking nothing account other than their character commitment conviction and competence. Process should be capable to attract the best talent and provide equal opportunity to all the Advocates. A transparent system should not only be

introduced for appointments of Judges but also be implemented for selection of Standing Counsels, Panel Advocates and Legal Officers for Centre and State Governments, Statutory Bodies and Public Sector Undertakings. The formats and procedures should be simplified to make the judiciary an institution for common man rather than being meant for the Judges and lawyers only and it should be uniform and common for all High Courts throughout the country.

25. For the society to function harmoniously, the Courts must be a place of honor that people regard as sacred and feel secured instead of scared. There is a public perception of nepotism in appointment of the judges in High Courts. Instead of merits/competence, these days the discussion centers on the personalities of judges. The most shocking thing is the open discussion of the proximity of judges and lawyers – who is close to whom. This unfortunate situation has tarnished the reputation of Judiciary and an erosion of faith in the system, although India has produced some of the greatest judges in the world – the men of character, commitment, conviction, courtesy, competence and clarity of thought with a compassionate heart.

26. It is a fact that huge number of cases are pending in courts and causing a lot of heartburn in people. Justice served after a ridiculous delay amounts to injustice only. As a result, good people are afraid of getting involved with courts in any way. Looking at the hefty legal fees, they have to pay and the long-drawn legal process they have to go through, they prefer to get rid of the issue by other means even if they have to forfeit their rightful claims sometimes. Our justice system, to some degree, is being exploited to halt and bring blemish to the character of sincere people. One reason for this, as one Hon'ble former CJI has pointed out is paucity of judge in higher courts.

27. Democracy needs an independent and accountable judiciary. The notion of an independent judiciary is part of the basic structure of the Constitution which renders the precept inviolate. To begin with, the Executive in consultation with Hon'ble CJI appointed the Judges of the High Court and Apex Court. This era produced a Judiciary committed to the government of the day. The pendulum swung the other way in 1993 when the collegium system was created under which the judges are being appointed by judges. However, this led to a lack of transparency and promoting nepotism. A middle path needs to be urgently found as millions of cases are pending in Courts.

28. Presently Chief Justices of the High Court's with help of two senior-most Judges, recommends the name of prospective Advocates and Hon'ble Chief Justice of India with four senior-most Judges take the final decision. But, there is no system of advertisements eliciting applications for the post of judges. Petitioner suggests that the Chief Justice of respective High Court in 'Full Court Meeting' should recommend the names of prospective Advocates and Hon'ble Chief Justice of India should approve the names in 'Full Court Meeting'. It will instill confidence among lawyers and public at large.

29. The first Law Commission, headed by eminent jurist Mr. M.C. Setalvad, with opinion of the then Hon'ble Chief Justice of India Justice K.N. Wanchoo and Justice M.C. Chagla and learned Palkhivala among others, had made a strong recommendation for the constitution of IJS. The felt need for IJS has been increased several fold in last six decades since that recommendation. Subsequently the Article 312 was amended in 1976 to specifically provide for creation of IJS but unfortunately, it is still a dream due to non-seriousness of the consecutive Governments.

30. Three Chief Justices' conferences in 1961, 1963 and 1965 recommended to create IJS. In 1972, the then Chief Justice of India again endorsed the creation of IJS. The Supreme Court considered this issue and endorsed the creation of Indian Judicial Service. [AIJA vs UOI, AIR 1992 SC 165; (1993) 4 SCC 288; (1997) 8 SCC 520; AIR 1999 SC 1555].
31. All the Laws of 19th and 20th Century should be revised to meet requirements of modern judicial administration. The principles underlying the procedural law are valid even today but in actual practice, several procedures have become cumbersome, dilatory and often counter-productive. There should be time limits prescribed for adjudication. The stays and endless adjournments should be firmly curbed. The right to get justice within one year in criminal case and two years in a civil case should be guaranteed and procedural laws be amended accordingly. Only one appeal should be permitted in civil cases. All stays should be prohibited except in exceptional circumstance for reasons specifically recorded in writing and no stay should exceed 30 days. The time limits for adjudication should be strictly adhered to even in cases involving stay orders. The Apex Court jurisdiction should be limited only to matters involving interpretation of the Constitution or disputes between two States or Union and States and it should function only as a Constitutional Court. Appellate powers of High Courts should be severely restricted in order to reduce the load and to ensure sanctity and authority of the High Courts. Matters relating to taxation, labour disputes and disciplinary action against employees should be beyond the purview of ordinary law courts. They should be entrusted to the special tribunals with no provision for appeal to High Courts except on grounds of interpretation of the Constitution.

32. Crime investigation, intelligence gathering, riot control and security of State properties and protection of important citizens- all in a single police force has had a devastating effect on criminal justice system. The police forces have become inefficient and increasingly partisan. As the government of the day, have complete powers over the crime investigation machinery as well as legal authority to drop criminal charges against accused, crime investigation has become a plaything of partisan politics. It is therefore vital to create an independent wing of police force fully in charge of crime investigation and functioning under the direct control of independent prosecutors appointed as constitutional functionaries. The criminal courts should hold the prosecutors and the crime investigation police force accountable to them in their overall functioning. Only when crime investigation is thus insulated from the vagaries of politics, there can be any fairness and justice to ordinary citizens. Equally important, only when crime investigation machinery is accountable to judiciary can the obnoxious and inhuman practice of torture, third degree and extra judicial executions in fake encounters be stopped.

33. To ensure more experience in the judiciary, retirement age of the High Courts and Apex Court Judges should be 70 years. All Courts including Apex Court should function 6 Hours a day and 225 days every year. Collegiums system lacks objectivity and transparency. As a solution, Union brought NJAC, which Apex Court has struck down. The cure does not lie in restoring the prevailing collegium, but in putting in place a system that is objective and transparent. Thus, the CSM assumes significance. This old demand has always been shelved because of vested interests masquerading as judicial independence hence such a model is well functioning in many countries.

- 34.** Advocate-on-Record exam should be conducted at national level and only prospective Advocate-on-Record should be recommended for judgeship by Full Court Meeting of the High Court and approved by Full Court meeting of the Apex Court. Judges should not be appointed in the same High Court where they practiced the Law or their blood relatives are practicing.
- 35.** Introduction of a Central Selection Mechanism for appointment of Judges I Subordinate Judiciary is long overdue and has been hanging since last five decades. As of now, while most government departments have 'All India Service' recruits, selected after the competitive examination, the Judiciary is the only setup that does not have a national level selection process to attract the best possible talent. Law Commission has thrice - in its 1st, 8th, 116th report - called for IJS. The Apex Court has twice- first in 1991, then in All-India Judges Case (1992) endorsed the creation of IJS. The Parliamentary Standing Committee in its 64th report on Law and Justice also recommended for establishment of IJS and directed the Law Ministry to take appropriate action in this regard. The first National Judicial Pay Commission and National Advisory Council to the Centre have also supported the IJS. Over and above, Article 312 explicitly provides for the creation of IJS. However, in spite of all this, IJS not started till date and mere opposition by few States / High Courts, gave a lame excuse to Union Governments to sleep over the matter.
- 36.** In a democratic setup, intrinsic and embed faith in adjudicatory system is of seminal and pivotal concern. Unnecessary delay gradually declines the citizenry faith in judicial system. Fragmentation of faith has the effect potentiality to bring in a state of cataclysm where justice may become causality. Fair fast and uniform justice keeps the people's faith engrained and

establishes the sustained stability. Access to fair fast and uniform justice is deeply rooted in the concept of democracy and regarded as a basic human right. It is in the interest of all concerned that the guilt or innocence of the accused is determined as quickly as possible. Myriad facts and situations, bearing testimony to the denial of the fundamental right of the fair and fast trial to the accused persons and failure on the part of prosecuting agencies have persuaded the Hon'ble Supreme Court in devising solutions, which go to the extent of almost enacting by judicial verdict - the bars of limitation. Judicially engrafted bars of limitation, no doubt meant to provide a solution to the long delay problem but this gives rise to greater problem like scuttling a trial without adjudication, stultifying excess to justice and giving easy exit from the portals of justice. If the period of deprivation pending trials becomes unduly long, fair fast and uniform justice under Article 21 would receive a jolt.

37.The provision of speedy justice is an obligation of the State, otherwise the operation of the legal system would not promote justice, which is assured in Preamble of the Constitution. Parliament enacted the All India Service Act 1951, for creating certain All-India Services in addition to the IAS and IPS. The 1951 Act was amended in 1963 to create 3 more All-India Services but IJS not created till date in spite of constitutional provision under Article 312. The Apex Court expressed its views strongly in favour of IJS to ensure Uniformity of standards throughout the India in matter of Judicial Service. Union should take steps to setup IJS without further delay. Only such a meritocratic service with open competitive examination and 2-3 years comprehensive training to judges and assured standards of probity and efficiency would be able to ensure 'Fair Trial and Speedy Justice' to citizens in spirit of the Article 21.

38. On 24.10.2009, the then Hon'ble Chief Justice of India endorsed the IJS in his inaugural address in a high level Conference "*National Consultation for Strengthening the Judiciary towards Reducing Pendency and Delays*". The then Union Law Minister, Attorney General of India, Solicitor General of India, Union Home Secretary, Union Law Secretary, many Eminent Jurists, Prominent Judges, Academicians, Social Activists, Senior Advocates, Leaders, Members of Parliament and dignitaries attended the seminar. Union Minister for Law and Justice presented a Resolutions, which were adopted by the entire Conference unanimously. Much awaited establishment of IJS and increase in the strength of judges by 25% was part of the Resolution. Union Law Minister presented a vision document to Hon'ble CJI for reducing the pendency of cases from 15 years to 3 years. Union Government framed a National Litigation Policy with a view to ensure conduct of responsible litigation by the Union Government and urged State Governments to evolve similar policies however; this policy is not being adhered in letter and spirit.

39. The three Eminent Judges, Justice V.R. Krishna Iyer, Justice J.S. Verma, Justice M.N. Venkatachaliah gave their joint view on the constitution of IJS: "*We agree with the urgent need to constitute the All India Judicial Service envisaged by Article 312 of the Constitution of India; at par with the other All India services like the IAS, to attract the best available talent at the threshold for the subordinate judiciary; which is at the cutting edge of the justice delivery system to improve its quality. Moreover, the subordinate judiciary is important feeder-line for appointments to the High Courts. The general reluctance of competent lawyers to join the Bench even at the higher levels adds an additional urgency to the problem. AIJS will in due course of time,*

also help to improve the quality of the High Courts and the Supreme Court. The modalities for creating the AIJS to achieve its avowed purpose, and the necessary constitutional changes and the legal frame-work can be worked out after acceptance of the proposal in principle”.

40. The 41st Chief Justice of India, Hon’ble Justice R.M. Lodha, after assuming the charges, reiterated need of IJS in line of IAS and IPS and said: “Setting up of an All India Judicial Service, being planned by the government on the lines of the IAS and IPS for recruiting judges for subordinate courts, should be given serious thought. A national consensus is lacking as some states have raised reservations on the framework of the All India Judicial Service. Those states should also be brought on board”.

41. Parliament Standing Committee endorsed IJS in its 64th Report (Para-50): “All India Judicial Service has been envisaged under Article 312 of the Constitution of India. The Committee expresses its concern over the delay in its creation. The Committee insists that All India Judicial Service may be created without further delay to attract best talent to the subordinate judiciary from where 33% of the judicial officers are elevated to the Bench of High Courts. Reservation as per existing policy of the Government may be made applicable in All India Judicial Service”.

42. The first Law Commission of India, headed by learned MC. Setalwad, with the benefit of opinion of the then Chief Justices of India Sh. KN Wanchoo and Justice MC Chagla, and Eminent Jurist Nani Palkhivala among others, had made a strong recommendation for the constitution of an All-India Judicial Service, like the IAS and IPS. The felt need for such a service increased several fold in the last 57 years since that recommendation.

43. Subsequently the Article 312 was amended in 1976 to specifically provide for creation of All India Judicial Service but unfortunately, it is still a dream due to non-seriousness of the consecutive union governments. Three Chief Justices' conferences in 1961, 1963 and 1965 favoured this recommendation. In 1972, the then Chief Justice of India again endorsed the creation of All India Judicial Service. Hon'ble Supreme Court considered this issue in the All-India Judges Case in 1992, and endorsed creation of the All India Judicial Service. The Law Commission in its 77th Report recommended creation of All India Judicial Service. In 1986, Law Commission of India in its comprehensive 116th report again examined the entire issue in detail, and recommended the formation of an All India Judicial Service in accordance with the Article 312.

44. Article 312 of the Constitution provides for the creation of an All India Judicial Service common to the Union and the States. Such a service can be created and regulated by the Parliament by law, provided that the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest to do so. Union government through the President's address to the Parliament, gave a commitment to make dispensation of justice simpler, quicker and more effective, and to double the number of courts and judges in the subordinate judiciary in a phased manner.

45. The union government also announced its commitment to a policy of zero tolerance on violence against women and to strengthen the criminal justice system for its effective implementation. It is well settled that right to speedy trial in all criminal prosecutions is an inalienable right under Article 21 of the Constitution of India. This right is applicable not only to the actual

proceedings in Courts but also includes, within its sweep the preceding police investigation as well. The right to speedy trial extends equally to all criminal prosecutions and not confined to particular cases. Undoubtedly, our judge, population ratio is too low, and we need many more trial courts. However, as many Jurists have pointed out, mere increase in the number of Judges without improvement in their competence is of no benefit. The quality of justice administered critically depends on the process of the Judges recruitment. Clearly, there is a compelling case to create a highly competent, meritocratic All India Judicial Service. Judges can be recruited at a young age, very much similar to officers like IAS and IPS. Provisions can be made for adequate experience in trial Courts below district level as part of mandatory training or by repealing Article 312(3) of the Constitution and providing for posting of Indian Judicial Service below the district level for 3-4 years.

- 46.** In *Brij Mohan Lal v. UOI* [(2012) 6 SCC 502, Para 137] the Court said: *“Article 21 takes in its sweep the right to expeditious and fair trial. Even article 39A of the constitution recognizes the right of citizens to equal justice and free legal aid. It is the constitutional duty of the government to provide the citizens of the country with such judicial infrastructure and means of access to justice so that every person is able to receive an expeditious, inexpensive and fair trial. The plea of financial limitations or constraints can hardly be justified as a valid excuse to avoid performance of the constitutional duties of the government, more particularly, when such rights are accepted as basic and fundamental”. The Court further observed (Para 145): The state cannot be permitted to advance an argument of financial constraints in such matters. The policy of the state has to be in the larger public interest and free from*

arbitrariness. Ad hocism and uncertainty are the twin factors, which are bound to adversely affect any state policy and its result. The state cannot, in an ad hoc manner, create new systems while simultaneously giving up or demolishing the existing systems when the latter have even statistically shown achievement of results”.

47. In *Hussainara Khatoun v. State of Bihar* [(1980) 1 SCC 81], the Court said:

“Speedy trial is implicit in the broad sweep and content of Article 21 of the Constitution”. Subsequently, in a series of judgments, the Court has held that a “reasonably” expeditious trial is an integral and essential part of the fundamental right to life and liberty enshrined in Article 21. The Court made it clear that the guarantee of the speedy trial is intended to avoid oppression and prevent delay by imposing on the court and the prosecution an obligation to proceed with the trial with a reasonable dispatch. The guarantee serves a threefold purpose. Firstly, it protects the accused against oppressive pre-trial imprisonment, secondly, it relieves the accused of the anxiety and public suspicion due to unresolved criminal charges and lastly, it protects against the risk that evidence will be lost or memories dimmed by the passage of time, thus, impairing the ability of the accused to defend him or herself. Stated another way, the purpose of both the criminal procedure rules governing speedy trials and the constitutional provisions, in particular, Article 21 is to relieve an accused of the anxiety associated with a suspended prosecution and provide reasonably prompt administration of justice.

48. In *Mohd Hussain v State* [(2012) 9 SCC 408], the Apex Court said:

“Speedy Trial” and “Fair Trial” to a person accused of a crime are part of Article 21. There is, however, qualitative difference between the right to speedy

trial and the accused's right of fair trial. Unlike the accused's right of fair trial, deprivation of the right to speedy trial does not per se prejudice the accused in defending himself. The factors concerning the accused's right to speedy trial have to be weighed vis-à-vis the impact of the crime on society and the confidence of the people in judicial system. A speedy trial secures rights to an accused but it does not preclude the right of public justice. Nature and gravity of crime, persons involved, social impact and societal needs must be weighed along with right of the accused to speedy trial; and if the balance tilts in favour of the former, the long delay in conclusion for criminal trial should not operate against the continuation of prosecution and if the right of the accused in the facts and circumstances of the case and exigencies of situation tilts the balance in his favour, the prosecution may be brought to an end. These principles also apply when the appeal court is confronted with the question whether or not retrial of an accused should be ordered. (Para 40)

49. In *Rajinder Singh v. Prem Mai* [(2007) 11 SCC 37], the Apex Court said: *"People in India are fast losing faith in judiciary because of the inordinate delay in disposal of the cases. The authorities concerned should do the needful in the matter urgently to ensure speedy disposal of cases if people's faith in the judiciary is to remain". (Page 11)*

50. In *Imtiyaz Ahmad v. State of UP* (2012) 2 SCC 688, the Apex Court said: *"Unduly long delay has the effect of bringing about blatant violation of the rule of law and adverse impact on the common man's access to justice. A person's access to justice is guaranteed fundamental. Denial of this right undermines public confidence in the justice delivery system and incentivizes people to look for shortcuts and other for a while whether they feel that justice will*

be done quicker. This weakens justice delivery system and poses a threat to the rule of law. Access to justice in an egalitarian democracy must be understood to mean qualitative access to justice as well. Access to justice is, therefore, much more than improving an individual's access to Courts or guaranteeing representation. It must be defined in terms of insuring legal judicial outcomes are just and inequitable. (Para 25). The Court further said: "The judges should deliver the judgment immediately upon the closure of argument. It is almost of as much importance that the court of first instance should decide promptly as that it should decide right. It should be noted that everything, which tends to prolonged or delay litigation between individuals, or between individual and state or corporation, is a great advantage for that litigant who has the longer purse. The man whose rights are involved in the decision of the legal proceeding is much prejudiced in a fight through the courts. If his opponent is able, by reason of his means, to prolong the litigation and keep him for years out of what really belongs to him. Dispatch in the decision making process by court is one of the great expectations of the common man from the judiciary. Delay in disposal would destroy the confidence, and do incalculable damage to the society. People would have long been exploited in the small transactions of the daily life come to believe that Courts cannot vindicate their legal rights against fraud overreaching and the law in the larger sense cannot fulfill its primary function to protect them and their families in their homes, at their work place and on public streets. (28-29)

51. In subordinate courts, there have been inordinate delays and varying levels of efficiency. It is high time that IJS is created under Article 312. Persons recruited to such a service should hold the offices of the Additional District

and Sessions Judges. Only such a meritocratic service with a competitive recruitment, and equal uniform and comprehensive training and assured standards of probity and efficiency would be able to ensure fair fast equal and uniform justice to citizens. Minimum 50% of the High Court Judges should be drawn from the All India Judicial Service.

52. The civil, criminal procedure codes, and the laws of evidence have to be substantially revised to meet the requirements of modern judicial administration. While the principles underlying the procedural law are valid even today, in actual practice several procedures have become cumbersome, dilatory, and often counter-productive. There should be time limits prescribed for adjudication. The stays and endless adjournments should be firmly curbed. The right to get justice within two year in a criminal case and three years in a civil case should be constitutionally guaranteed and procedural laws should be amended accordingly.

PRAYER

Keeping in view the above stated facts, it is the most respectfully prayed that this Hon'ble Court may be pleased to issue a writ, order or direction or a writ in the nature of mandamus to the respondents to:

- a)** take appropriate steps to establish a Central Selection Mechanism for appointment of Judges in Subordinate Judiciary through National Level Exam, purely on the merit and in the most transparent and fairest possible way;
- b)** pass such other order(s)/direction(s), as this Hon'ble Court may deem fit and proper for speedy disposal of cases and allow the cost of petition to petitioner.

New Delhi
10.12.2019

(Ashwani Kumar Dubey)
Advocate for Petitioner

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO OF 2019

(PIL UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

Ashwini Kumar Upadhyay

...Petitioner

Verses

Union of India & another

...Respondents

AFFIDAVIT

I, Ashwini Kumar Upadhyay, aged 45 years s/o Sh. Suresh Chandra Upadhyay, Residence at: G-284, Govindpuram, Ghaziabad, 201013, UP, Office at: 15, M.C. Setalvad Chambers, Supreme Court of India, New Delhi-110001, at present at New Delhi, do hereby solemnly affirm and declare as under:

1. I am petitioner above named and well acquainted with the facts and circumstances of this case and as such competent to swear this affidavit.
2. I have read and understood the contents of synopsis (B-H), writ petition paras (1 - 52) pages (1 - 25) & total pages (1 - 26) which are true and correct to my knowledge and belief.
3. Annexure has not been filed with this writ petition.
4. I have not filed any other petition either in this Hon'ble Court or in others Court seeking same or similar directions prayed in the instant 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. There is no motive other than the larger public interest and interest of justice.
6. There is no civil, criminal or revenue litigation, involving applicant, 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 application. There is no other remedy available except approaching this Hon'ble Court.
8. I have gone through Article 32 of the Constitution and the Supreme Court Rules and do hereby affirm that present petition is in conformity thereof.
9. I have done whatsoever enquiry/investigation, which was in my power to do, to collect the data and material, which was available; and which was relevant for this Hon'ble Court to entertain this petition.
10. I have not concealed any data, material and 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. Averments made in this affidavit are true and correct to my personal knowledge and belief. No part of this is false or fabricated, nor has anything material been concealed there from.

(Ashwini Kumar Upadhyay)

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 solemnly affirm today i.e. 10th day of December 2019 at New Delhi.

(Ashwini Kumar Upadhyay)

DEPONENT