

IN THE SUPREME COURT OF INDIA  
ORIGINAL CIVIL WRIT JURISDICTION  
I.A. NO. \_\_\_\_\_ OF 2020  
IN  
WRIT PETITION (CIVIL) NO. 472 OF 2019

**IN THE MATTER OF:**

YASMEEN ZUBER AHMAD PEERZADE & ANR ...PETITIONERS

VERSUS

UNION OF INDIA & ORS ...RESPONDENTS

**AND IN THE MATTER OF:**

ZIA US SALAM



...INTERVENER/APPLICANT

AN APPLICATION FOR INTERVENTION

PAPERBOOK  
(FOR INDEX KINDLY SEE INSIDE)

**ADVOCATE FOR THE INTERVENER:**

**FARRUKH RASHEED**

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...INTERVENER/APPLICANT

**AN APPLICATION FOR INTERVENTION**

TO,  
HON'BLE THE CHIEF JUSTICE OF INDIA  
AND HIS COMPANION JUSTICES OF THE  
HON'BNLE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE  
PETITIONER ABOVE NAMED

**MOST RESPECTFULLY SUBMITS:**

1. This Writ Petition was filed under Article 32 of the Constitution of India praying for a direction against the Union of India and others seeking *inter alia* a direction to the Respondents to permit the Muslim Women to enter and offer prayers inside mosque; a mandamus declaring the customary tradition of denying of Muslim Women in

Mosque in India as illegal, unconstitutional for being violative of Articles 14, 15, 21, 25 and 29 of the Constitution.

2. That this Hon'ble Court was pleased to issue notice in W.P (Civil) 472 of 2019 vide its order dated 16-04-2019, and the matter is presently pending before this Hon'ble Court.
3. The Applicant is an Islamic scholar and an author. He has been associated with *The Hindu* for almost two decade and has been its feature Editor for North India editions for sixteen years. Currently, he is an Associate Editor, *Frontline*, and writes on socio-cultural issues for the magazine. The applicant has authored various books including, *Lynch Files*, *365 tales from Islam*, *Of Saffron Flags and Skull Caps*, *Madarsahs in the age of Islamophobia* and *Till talaq Do Us Part*.
4. Recently, the Applicant has authored a book titled "Women in Masjid- A quest for Justice", wherein he has argued that in Islam, Men and Women are equals and Islam does not prohibit the entry of Muslim Women in Islam, rather encourages it. The applicant's book has been published after extensive study on the issue of entry of women in mosque. The applicant has substantiated his case with Quranic verses and the Hadiths. As such the applicant can provide a reliable insight into the issues for consideration in the present petition and assist the court in making a fully informed decision.

5. That , neither the Quran nor the Hadith bars or prohibits the entry of Muslim women in mosques. In fact, in Quran at nearly 60 places, Allah asks both men and women to “establish” prayer, as opposed to merely offering prayer. Praying in isolation does not amount to establishing prayer. Prophet Mohammad permitted women to enter mosque. It is a permission well respected in mosques across West Asia, Europe and America. Men and Women pray at Masjid-al-Haram in Mecca and they pray in Al Masjid al Nabvi in Medina.

6. Salat (Namaz) is the second of the five obligatory pillars of Islam and is initiated with the recitation of the adhaan which means a call for prayer. When the muezzin pronounces, '*Hayya allas salah, hayya alal falah*' meaning, 'come for Prayer, come for success.' he invites everybody without any discrimination on the basis of gender. The prayer is to be offered in the congregation and for this purpose, a mosque is created so that everyone can assemble at one place.

7. In India, women rarely offer their prayers in a mosque. They are discouraged by the scholars and clerics by quoting a Hadith wherein a lady Umm Humayd, caught in a troubled marriage with her husband who would not give her any freedom, told the prophet:-

*'O Messenger of Allah, I love to pray with you.'*

To which he said,

*"I know that you love to pray with me, but praying in your house is better for you than praying in your courtyard, and praying in your courtyard is better for you than praying in the mosque of your people, and praying in the mosque of your people is better for you than praying in my mosque."*

It is important to remember that even at that time there were men who asked the Prophet to prohibit women from coming to mosques, but the Prophet declined their request.

In the specific case of Umm Humayd, he did not say "the prayer of women is better in their rooms". Instead, he directly told her, "Your prayer in your room is better for you". He didn't say that Allah would reward women more if they prayed in the innermost room of their residence, or that Allah would reward Umm Humayd for praying in the innermost room of her house. He simply said it was better for her. It could be interpreted as the Prophet's attempt to bring peace in her marital life.

In any case, this was for a specific case where a woman was often faced with distraction from her husband, so she was advised to go to the inner chamber where he would not be present. More importantly, even as the Prophet advised her to stay indoors for her prayer, he did say, 'praying in the mosque of your people is better than praying in my mosque'. In other words, he suggested to the woman to opt for a local mosque, which would entail less travel time and keep her away from her husband for a shorter time. It is important to remember

that Umm Humayd's husband Abu Hamid Al- Saedi was from the family of Bani Saedah, a branch of Medina's Al Khazraj tribe. The clan lived just outside Medina at that time. Taking these ground realities into consideration, the Prophet intended to bring about a rapprochement between the spouses, as her husband was unhappy with the fact that his wife had to travel so much to reach the Prophet's Mosque five times a day. Prophet's suggestion to Umm Humayd was specific, and not general in nature.

8. There are many verses in the Quran and Hadith (Bukhari Shareef and Sahih Muslim) in which the Prophet has in fact encouraged the women to pray in mosque. The same will be cited and relied upon during the course of arguments.
9. In India, though there may not be an explicit ban for women to enter mosques but there is a tacit ban inasmuch as *inter alia* there is no separate entry for women, no separate ablution area for them etc. This practice is against the tenets of Quran and Hadith. In India, Mosques are made by men for men. Women are seldom members of the mosque Committee and their needs and requirements are never taken into regard when mosques are constructed and managed. This passive discrimination is against the tenets of Islam and violates gender justice which is a Constitutional guarantee.

10. The practical ban on women to enter mosque in India violates her right to establish prayer in Mosque, which is permitted and encouraged by the Quran and Hadith.

### **PRAYERS**

It is therefore most respectfully prayed that this Hon'ble Court may be graciously pleased:

- (a) Allow the present application and permit the Applicant to intervene and address this Hon'ble Court in Writ Petition (C) No. 472 of 2019; AND
- (b) pass such other and further Orders as this Hon'ble Court may deem fit and proper

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

FILED BY:

\_\_\_\_\_  
FARRUKH RASHEED  
ADVOCATE FOR THE APPLICANT

Filed on: 27-01-2020



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**AFFIDAVIT**

I, Ziya Us Salam, [REDACTED]

[REDACTED] ALL ABOUT LAW [REDACTED]

[REDACTED] do hereby solemnly swear and affirm as under:-

1. That I am the Applicant in the present intervention application, as such, I am well conversant with the facts of the present case, as such, I am fully competent to swear and depose the present affidavit.
2. That the intervention application in the instant petition have been drafted and filed by my counsel on my instructions and have been explained to me. I have fully understood the contents of the same which are true and correct to my personal knowledge and belief. No part thereof is false and nothing material has been concealed therefrom.
3. That the Annexures to the instant application are true copies of their respective originals.

**DEPONENT**

VERIFICATION

Verified at New Delhi on this the 27<sup>th</sup> Day of January 2020 that the contents of paragraph 1 to 3 of the present affidavit are true and correct to the best of my knowledge and belief. Nothing material has been withheld there from.

**DEPONENT**

