

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(CIVIL ORIGINAL JURISDICTION)  
W.P(C) NO. OF 2020**

**IN THE MATTER OF PUBLIC INTEREST LITIGATION**

**IN THE MATTER OF:**

Ms. Triveni Poteker ...Petitioner

Versus

Union of India &Anr. ...Respondents

**MEMO OF PARTIES**

**PETITION UNDER ARTICLE 226 READ WITH ARTICLE 21 OF THE CONSTITUTION OF INDIA SEEKING ISSUANCE OF A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT ORDER OR DIRECTION TO MINISTRY OF HEALTH AND HUMAN WELFARE AND GOVERNMENT OF DELHI FOR ASSESSMENT AND REVIEW OF CURRENT SITUATION AND TAKING APPROPRIATE AND SUFFICIENT STEPS IN A SCIENTIFIC MANNER AND IN LINE WITH PROJECTED W.H.O ADVISORIES TO CURTAIL SPREAD OF CORONAVIRUS DISEASE AND FOR ENSURING SUFFICIENT PREPAREDNESS FOR PROPER TREATMENT IN CASE OF MASS SPREAD.**

**LAW.in**  
ALL ABOUT LAW

..... Petitioner

**ersus**

1. Union of India  
through Secretary,  
Ministry of Health and Family  
Welfare  
Nirman Bhavan  
Nera Udyog Bhavan Metro Station,  
Maulana Azad Road,  
New Delhi -110011

2. State of Delhi,  
Through Chief Secretary,  
Delhi Secretariat,  
IP Estate, New Delhi. 110002

..... Respondent

Delhi :

Dated : .03.2020

**NIVEDITA SHARMA & KIRTI MEWAR  
LAW OFFICES OF INDIA  
ADVOCATES  
COUNSELS FOR THE PETITIONER  
H-1, ANAND NIKETAN,  
NEW DELHI-110021**

**IN THE HIGH COURT OF DELHI AT NEW DELHI**  
**CIVIL ORIGINAL JURISDICTION**  
**WRIT PETITION (C) NO.        OF 2020**  
**(Under Article 226 of the Constitution of India)**

**IN THE MATTER OF PUBLIC INTEREST LITIGATION**

**IN THE MATTER OF:**



..... Petitioner

1. Union of India  
through Secretary,  
Ministry of Health and Family  
Welfare, Nirman Bhavan  
Near Udyog Bhavan Metro Station,  
Maulana Azad Road,  
New Delhi -110001

2. State of Delhi,  
Through Chief Secretary,  
Delhi Secretariat,  
IP Estate, New Delhi. 110002

..... Respondents

**PETITION UNDER ARTICLE 226 READ WITH ARTICLE 21  
OF THE CONSTITUTION OF INDIA SEEKING ISSUANCE OF  
A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE  
WRIT ORDER OR DIRECTION TO    MINISTRY OF HEALTH  
AND HUMAN WELFARE AND    GOVERNMENT OF DELHI  
FOR    ASSESSMENT AND REVIEW OF CURRENT  
SITUATION AND TAKING APPROPRIATE AND SUFFICIENT  
STEPS IN A SCIENTIFIC MANNER AND IN LINE WITH  
PROJECTED W.H.O ADVISORIES TO CURTAIL SPREAD OF  
CORONAVIRUS    DISEASE AND    FOR    ENSURING  
SUFFICIENT PREPAREDNESS FOR PROPER TREATMENT  
IN CASE OF MASS SPREAD.**

To,

Hon'ble The Chief Justice  
And His Companion Justices of the  
Hon'ble Supreme Court of India

The humble petition of the  
Petitioner above named

**MOST RESPECTFULLY SHOWETH:**

1. The instant Writ Petition under Article 226 read with Article 21 of the Constitution of India seeking issuance of writ in the nature of mandamus or directions to the Government of India through the Ministry of Health and family Welfare and through the Chief Secretary for the State of Delhi and or appropriate Government Authority, with regard preparedness of Government of India and various States Governments in India to deal with the deadly Coronavirus which has affected millions of people and many countries all over the world within short span of time. It is stated that the petitioner does not have any personal interest in the litigation and the Petition is guided by self-gain or for gain of any other person/institution/body and there is no motive other than of public interest in filing the present Writ Petition.
2. That the instant Writ Petition raises a substantial question of great public importance, pertaining to public health of millions of people of India with respect to the coronavirus outbreak which has now been classified as an epidemic

by the World Health Organization (WHO), the disease has already killed 3000 individuals as of date in Wuhan China the point of origin of the disease and about 120 individuals in other Countries, and has infected more than 93,000 people across many countries, since being detected in China's Wuhan in the end of December. It is stated that the Petitioner came to know about the Coronavirus through TV Channels, Facebook, twitter and other Net sources, which is in the public domain by now all over the country too.

3. That India is under grave potential risk of being mass infected across country for lack of sufficient screening, testing, isolation facilities, trained health workers with PPE (personal protection equipment) and medical infrastructure in smaller cities and rural India. It is stated that by filling the present Public Interest Writ Petition, all the citizen of the Country including common people, who have no access to the Justice system or who think that approaching any court will incur huge expenses will be benefited
4. That by filling the present Public Interest Writ Petition, Respondents No. 1 and 2 are directly responsible as both the Respondents are supposed to provide and take care of the welfare and well of its Citizen of India and more

particularly of State of Delhi as envisaged in the Constitution of India and further it is stated that benefits derived from the any orders or direction will be for the benefit of the common persons and as such it won't have any adverse effect on anyone.

3. That it is important in the larger public interest to review and enhance current capability available in India and create nationwide centralized management authority to handle preventive measure and treatment facilities to inspire, confidence in public at large, who are currently gripped with fear and uncertainty, due lot of mis information about the situation that's dynamic and unfolding new and unknown dimensions each day.

4. That the Petitioner is a citizen of India and Lawyer practicing regularly from 1989 and permanent member of Supreme Court Bar Association and is concerned about the potential risk that this deadly virus can expose millions of Indians to causing loss of life and lively hood . It is the right of the Petitioner and the public at large to know the preparedness of Respondents. Its pertinent to mention that each Respondents are only issuing press releases which are vague and lacking in material particulars. For instance it is claimed that 15 testing facilities are

operational and “specimens of suspected novel coronavirus patients are tested at the National Centre for Disease Control (NCDC) in Delhi, Indian Council of Medical Research (ICMR)’s laboratories at Alappuzha, Bengaluru, Hyderabad and Mumbai, besides the National Institute of Virology (NIV), Pune. All these labs are work under the guidance of NIV. Where are the other centres no one knows, it is also claimed that 19 more labs will be operational soon. But no time frame and locations were disclosed. To unquote Dr Harsh Wardhan “In India, 15 labs are functional to test the novel coronavirus so far. “Nineteen will be made operational soon,”

5. The Petitioner has reviewed all the information available in public domain of the steps that the Respondent No. 1 has taken and is of the view that same are not sufficient and appropriate to handle a mass outbreak. It is stated that petitioner has the means to pay the costs, if any, imposed by the Court.
6. That the Respondent No. 1 is the Union of India, through the Ministry of Health and Family Welfare and Respondent No. 2 is State of Delhi, through Chief Secretary who are supposed to provide technical and medical aid facilities and provided necessary guidelines and advisories’for welfare and well being of the citizens

of the Country. It is stated that the Petitioner has not made any representation to the government Authorities as the time is too short and day by day the virus is spreading at an alarming rate in the world and in India too as till the filing of the present Petition about 27 people have been affected by the Coronavirus.

7. **That the brief facts and circumstances leading to filing of the present Petition are as follows:**

- I. The present Petition is preferred by the petitioner out of grave concern for the tremendous risk that the citizens of India are exposed to and the petitioner has gone into details of preparations that the Government of India has so far undertaken, and same are reproduced here in below to assist the Hon'ble Court. The petitioner has also compared the measures/ preparation to fight the deadly virus with the steps taken by other countries which, in the opinion of many experts on this subject are inadequate to deal with any major outbreak in India and from a closer look at what has happened around the world seems like an eventuality.
- II. That in facts and circumstances of this petition it is absolutely necessary for this Hon'ble court to review the status of preparation and direct Respondents to add, enhance and improve its efforts to deal with and mitigate effects with an eventuality /a

catastrophe and impending disaster which might cost life of people.

III. That the novel coronavirus is called SARS-CoV-2 and causes a disease named Covid-19. The World Health Organisation (WHO) has declared its outbreak a global emergency. The World Health Organisation's global risk assessment for Covid-19 is "high". On January 30, the WHO declared the coronavirus outbreak a "Public Health Emergency of International Concern", or PHEIC, after initially deciding against issuing such an alert.

IV. The infections have spread to more than 80 countries across multiple continents. The number of infected individuals across the globe rose sharply to more than 93,000 in a very short time span, as the chart below is indicative that human-to-human transmission has been very rapid as infected cases have gone undetected. The chart below shows the various countries that have the cases of people infected with this virus. The fact that disease /virus that first showed up in Wuhan city of China in end of December has already spread across globe in very short span of time is matter of grave concern for all. Now in addition to Wuhan, China, Northern Italy has now emerged as the new epicentre of corona virus related disease and causing its spread across



Europe too and 13 people in India have been detected positive of coronavirus, who came in contact with the people who travelled from Italy. The number of cases are increasing by the hour and is difficult to keep pace with latest figure and chart is only indicative of speed and area of spread.

Hong Kong	124(+5)
Spain	165(+26)
Germany	143
Thailand	103
United States	76(+8)
Bahrain	47(+6)
Kuwait	46(+1)
Taiwan	40(+1)
United Kingdom	36(+13)
Australia	29(+4)
Malaysia	29(+4)
Canada	24(+4)
Switzerland	24(+6)
UAE	21
Iraq	19(+6)
Norway	19(+4)
Vietnam	16
Austria	14(+5)
Sweden	14(+1)
Israel	10(+3)
Lebanon	10(+6)
Macau	10
Netherlands	10(+3)
San Marino	8(+7)
Croatia	7(+1)
Greece	7
Ecuador	6(+5)
Finland	6(+3)
Oman	6
India	5(+2)
Denmark	4(+1)
Mexico	4
Pakistan	4
Algeria	3(+2)
Azerbaijan	3

Czech Republic	3(+3)
Georgia	3
Philippines	3
Qatar	3(+2)
Romania	3
Belgium	2(+1)
Egypt	2(+1)
Iceland	2(+1)
Russia	2
Afghanistan	1
Armenia	1(+1)
Belarus	1
Brazil	1
Cambodia	1
Dominican Republic	1(+1)
Estonia	1
Ireland	1
Lithuania	1
Luxembourg	1
Monaco	1
Nepal	1
New Zealand	1
Nigeria	1
North Macedonia	1
Sri Lanka	1

V. That though the situation in India yet is not as grim as the epicentre Wuhan in China but India is among the top 30 countries at "high-risk" from the spread of the deadly coronavirus, according to a study based on the number of air travellers predicted to arrive in the countries from the worst-affected cities and other Asian Countries, including Japan, South Korea, Italy and other countries across Europe. Though as per the claim of the Respondent 1 the 21 airports, major and minor ports and borders are being screened even then the infected people have managed to reach in India and infect many more people.

- VI. Initially three medical students of the Wuhan University, all natives of Kerala, who returned to India on their own recently and self-reported at a hospital in the state have tested positive for the respiratory virus. All the three Indian patients have been discharged as per the Ministry of health. Besides this, around 100 people were admitted to isolation wards in hospitals across the country while 9,678 people are under community surveillance.
- VII. That despite that about 28 cases have been detected in the last 24 hours in Delhi and NCR and unconfirmed news of one parent of some school in Noida has tested positive of corona virus infection and is likely to have infected a large number of students too. Though according to Ministry of health the situation is under control, the states need to stay on alert and be vigilant.
- VIII. The question that we all need an answer to is, is India adequately prepared to cope with the mysterious coronavirus, should it turn into an epidemic. Because according to recommendations by the World Health Organization. the diagnosis of COVID-19 must be confirmed by RT-PCR or gene sequencing for respiratory or blood specimens, as the key indicator for hospitalisation. "The RT- PCR test is a highly sensitive. This is a kind of gene based diagnostic test. It is much

more reliable and much better than the conventional test," said a scientist, requesting anonymity. Its important to for people to know what test India is using. On February 13, China reported over 14,800 new cases in Hubei province after authorities began using CT scans to diagnose infections. They earlier used only RNA tests.

- X. That considering there is no vaccine or trial-proven drug therapy yet, affected patients are being treated symptomatically based on clinical severity. "Serious cases who have viral pneumonia will need supportive intensive care, including mechanical ventilation when required. Hospitals in large cities can provide this, if the numbers are not overwhelming. Small towns and rural areas in most states will be ill-equipped if the virus spreads further," says Dr K. Srinath Reddy, president, Public Health Foundation of India (PHFI).
- XI. Further it has learnt that, due to ever increasing threat of novel coronavirus looming large, the Union Health Ministry has decided to stock up at least 50,000 personal protection equipment (PPE) kits for doctors and other medical staff treating the patients which may not be sufficient at all with the increasing affected persons. Which includes disposable clothing, boots, masks and gloves, in case India witnesses an outbreak of the deadly

coronavirus and it is unconfirmed if they have already procured or not.

XII. States and Union Territories were also asked to review the availability of earmarked isolation PPE kits and N95 masks to ensure adequate preparedness. States were also asked to strengthen their rapid response teams to counter any eventuality, but one is not sure what exactly has been actually done . Like always, political leaders make non-specific statements like we are well prepared to take on any challenge. But previous experiences have shown that when time comes they always fall way short of their tall claims.

XIII. Further it has been learnt that travel advisory issued by the Respondent No. 1, has asked people to refrain from travelling to China, Japan, South Korea, Italy and Iran, in view of the coronavirus outbreak and said travellers on return could be quarantined. In an updated travel advisory, the health ministry said that the existing visas, including e-visas already issued, are no longer valid for any foreign national travelling from China and the Countries mentioned above. Passengers arriving from Thailand and Singapore, besides China and Hong Kong, are being screened for possible exposure to nCoV at 21 airports. In all, 2,15,824 passengers from 1,984 flights have been screened so far at 21 airports. Screening is

also being done at major seaports and border crossings  
.As of now, 1,563 samples have been tested.

XIV. It is pertinent to mention that the advisories issued by the Respondent came too late. it is claimed that 25,738 persons are under community surveillance of IDSP network. As many as 5,57,257 passengers have been screened. Despite that the Italian tourist have brought in the corona infection and infected many many more people in Delhi , there is no explanation forth coming from the Respondents as to how did this slip happen, when Government claims as above that all 21 airports ,ports are being screened and 5lac plus travellers have so far been screened and 10 lac people on boarders have been screened . The information available is contradictory and vague given by the Respondent No. 1 Ministry in its communications ,

XV. The death toll is higher than the number of fatalities caused by the SARS pandemic (774) between 2002 and 2003.In order to be prepared for the outbreak of the deadly virus in our country the following are the some of the minimum required measures that are supposed to be taken:

i. **Labs for testing**, every city needs to have labs.

Steps to expand testing for the virus, which causes

a highly infectious respiratory disease called covid-19.

- ii. **Full-Featured Ventilators** in hospitals across the country: In plausible worst-case-scenarios given the pattern of the outbreak thus far, the country could experience acute shortages not just in ventilators but also health workers to operate them and care for patients; hospital beds; and masks and other protective equipment. Need to assess how many ventilators we have, what our capacity is, who's going to take what role.
- iii. Tens of thousands of **respiratory devices** to be repurposed in an emergency, but the shortfall could be stark, potentially forcing doctors to make excruciating life-or-death decisions about who would get such help should hospitals become flooded with the desperately sick.
- iv. Emergency plans that would require employees to work remotely, communities scrambling to build up supplies. We may not have the basic necessities we need, including food, water, and basic sanitation supplies. Surgical mask and gloves, sanitizer distribution.

- v. To be equipped with electronic intensive care unit systems that allow off-site providers to monitor patients and communicate with them through video screens. Computer algorithms alert nurses when patients' vital signs are worrisome.
- vi. Constructing additional care wards and isolation centres.
- vii. Another looming concern is protecting health care workers and preventing the spread of outbreaks within hospitals. Keeping health workers safe requires protective equipment.



### **GROUND**

- A. Because the instant Writ Petition raises a substantial question of large public interest and of public importance with respect to deadly virus known as Coronavirus affecting large number of people.
- B. Because the Petitioner herein seeks judicial review of the preparation and the steps taken by the Respondents on scientific basis and not ad-hoc basis
- C. Because the Petitioner fears that current preparations and advisories issued by the Government of India are grossly inadequate to deal with the quantum of people that are



likely to be infected if corona -virus out breaks in India.As per the estimates of WHO .

- D. Because the petitioner has reasons to believe that the preparation as communicated by Res No. 1 and available in public domain do not seem to be sufficient or based on any scientific calculations and have been done without considering various aspects like number of people that can be affected and how many testing facilities, isolation wards and treatment centres will be required across India.
- E. Because the Respondent No.1 has not provided any preventive mechanism other than screening at 21 airport and ports and have established only 15 testing centres and 50 thousand PPEs and the same seems grossly inadequate.
- F. Because the petitioner and people at large have a fundamental right to life guaranteed u/a 21 of the constitution of India and have right to ensure and have right to information as to what has the Respondents have done to prevent and treat the outbreak , which is an eventuality .
- G. Because for instance in Seattle USA 6 deaths have occurred in last 24 hours and there scientist have already said that these six people are likely to have infected 1500 more people and the Seattle authorities are already in the

process of declaring state of medical emergency to prevent further spread and likely infected people are already under isolation and the same is likely in our country too.

H. Because the Petitioner believes rapid action plan/ disaster management plan is necessary to deal with this eventuality, along with experts and by sharing with international community the more scientific methods of testing, treatment and isolation etc .

23. That the Petitioner has not filed any other or similar petition now seeking the same relief either before this Hon'ble Court or any other High Court in India. This Writ Petition has been filed in Public Interest Petition has been filed *bona fide* and in the public interest of justice.

24. That the petitioner has no other alternative rather than to approach this Hon'ble Court looking at the grave and serious threat to the life and health of people of India and the fact that the instant Writ Petition raises a substantial question of law of general public importance with respect to the right of people of India right to information with regards preparations for ensuring safety and security of the public at large to avoid panic and unnecessary loss of life

25. That the petitioner has not filed any Annexures with the Petition.

## **PRAYER**

It is, therefore, most respectfully prayed, that in conspectus of the facts, circumstances and grounds stated *supra*, this Hon'ble Court may graciously be pleased to:

- A. Issue a writ, order or directions in the nature of mandamus to the Respondents for making available important and relevant information, availability, guidance's and easy access to medical facilities pertaining to treatment and testing of n COVID 19/corona virus for the benefit of Public at large;
- B. Issue a writ, order or directions in the nature of mandamus to the Respondents to review and assess current available facilities and infrastructure in scientific manner and as per international standards.
- C. Issue a writ, order or directions in the nature of mandamus to the Respondents to take proper and adequate measures to control and combat the menace of coronavirus;
- D. Issue a writ, order or directions in the nature of mandamus to the Respondents for setting up a monitoring committee under the supervision of experts in the field;

E. Pass such other order(s) or directions(s) as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case and in favour of the Petitioner.

AND FOR THIS ACT FOR KINDNESS THE PETITIONER AS IN DUTYBOUND SHALL EVER PRAY

PETITIONER

THROUGH



**NIVEDITA SHARMA & KIRTI MEWAR**  
**LAW OFFICES OF INDIA**  
**ADVOCATES**  
COUNSELS FOR THE PETITIONER  
H-1, ANAND NIKETAN,  
NEW DELHI-110021

New Delhi

Dated: 03.2020



**VERIFICATION :**

Verified at New Delhi on this \_\_\_day of March, 2020 that the contents of above affidavit are true and correct to my knowledge and belief; no part of it is false and nothing material has been concealed therefrom.

DEPONENT

