

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO. _____ OF 2020

IN THE MATTER OF: -

M.K. Raghavan

...Petitioner

Versus

Union of India And Ors.

...Respondents

P A P E R B O O K

(FOR INDEX PLEASE SEE INSIDE)

ADVOCATE FOR THE PETITIONER: **A. KARTHIK**

SYNOPSIS

- 1) The Petitioner herein is a Member of Parliament of Kozhikode Constituency in Kerala. The Petitioner has continually striven to secure and protect the fundamental rights of all citizens, particularly the marginalized sections of the society in Kerala. It is pertinent to mention that Kozhikode is one of the 20 Lok Sabha constituencies in Kerala. Kozhikode which is part of Malabar region has many of its residents working in foreign Countries especially GCC Nations i.e. Saudi Arabia, Kuwait, the United Arab Emirates, Qatar, Bahrain, and Oman.
- 2) The outbreak of COVID-19 has caused widespread disruptions in the lives of Indian citizens at home and abroad, especially those stranded in Gulf countries. As a result of this, the Petitioner herein is being approached by several individuals and organizations to ensure the safe return and well-being of such Indians who are stranded in GCC Nations in the absence of basic amenities; particularly those pertaining to essential healthcare requirements as well as household needs. The various categories of people who are stranded would include, but not be exhaustive of these:
 - a. Job seekers who came on 'visit visa' and are now stuck in the GCC nations;
 - b. People who were visiting their family on a visitors' visa;
 - c. Tourists who are stuck due to flight cancellations;
 - d. Expats who were supposed to fly back after cancellation of visas;
 - e. People who were given mandatory annual leave until further notice;
 - f. People who lost their jobs during this pandemic and now wish to return home;
 - g. People who are now stuck in a room without any food, medical supplies or salary;
 - h. People who are stuck in a room with those who've tested positive for COVID-19;

- i. People inhabiting labor camps that are densely populated without any adequate ventilation, thereby rendering any kind of social distancing, nearly impossible;
 - j. Pregnant women, immunocompromised, people with several pre-existing medical conditions such as blood pressure, diabetes, respiratory disease and children who are stranded alone while their families are back in India;
- 3) It is apposite to note that these individuals contribute substantially to the GDP of our nation every year through their foreign remittances.
- 4) As a result of the numerous requests received by the Petitioner everyday vide emails, telephonic calls etc from the affected persons mentioned herein above, the Petitioner contacted several airlines who expressed their desire and willingness to ensure the safe return of Indians stranded in GCC Nations. It has been informed that these nations have accorded their approval and assured their complete support for the operation of flights to India to assist with the repatriation of stranded Indian citizens. However, this proved to be futile as the Indian airspace has been shut since the outbreak of COVID-19. Therefore, Indians continue to be stranded despite several gracious offers being made by airline operators to assist their return from the GCC Nations.
- 5) Following these requests, the Petitioner made a representation to the Ministry of External Affairs, Ministry of Civil Aviation, Ministry of Shipping, and Government of Kerala requesting urgent permission for operating chartered flights between India and GCC Nations and take other appropriate measures to repatriate Indian citizens stranded therein. However, no positive response has been obtained regarding the said representation. With due consideration to the imperative need for timely intervention, the Petitioner herein has approached this Hon'ble Court.
- 6) The Petitioner lauds the efforts taken by the authorities in India as well as the leaders of the GCC nations in dealing with the Global Pandemic. All efforts

D

are being taken to deal with the crisis and the Petitioner is not raising any grievance against the functioning of the authorities. However, in order to redress the grievances expressed by the Indians stranded in GCC Nations, the Petitioner proposes certain suggestions in order to facilitate their safe return, keeping in mind that all such Indians belong to different strata of the society. The suggestions are as follows:

- A. Establishment of a specialised team in the Embassy in each of the GCC Nations and in India, solely dedicated to redress the concerns raised by the Indians in these nations, with traceable contact numbers and e-mail addresses in order to ensure timely assistance.
- B. Determination of the total number of citizens who are stranded & facing difficulties in GCC Nations and who are wanting to return to India. Assistance of various organizations/individuals who are willing to offer their services may be availed for the same.
- C. Prioritising of urgent cases who need immediate repatriation like pregnant women, those suffering from serious illnesses, immunocompromised, those who have to attend to any calamity in the family in India, those whose visas have expired, those who have lost their jobs, those whose sponsorship is being cancelled, those who have been tested negative for COVID-19 etc.;
- D. Financial assistance from the Union of India to ensure smooth repatriation for majority of those citizens, since most of them are engaged in blue collar jobs with daily/manual wages and would thus, not be in a financial position to fund their travel back home;
- E. Government initiatives to bring back desirous Indians stranded in GCC Nations may be ensured either through airways or waterways wherever possible;
- F. Lifting of ban on international flights and grant of specific approval for these special flights as there are many among the stranded population,

E

who are desirous of returning to India at their own cost & expense, be it through commercial flight or through a chartered flight that maybe arranged by some operators;

- G. Ensuring timely decision-making with regard to grant of permission for airlines willing to assist the Government in ensuring the return of Indians stranded in GCC Nations and;
 - H. Deputation of a medical team to GCC Nations to ensure adequate medical assistance is provided to those who are infected by COVID-19 with due regard to the laws and regulations of such nations.
- 7) Certain other measures which may be kept in mind to ensure the safety of these Indians upon return, as also to ensure the safety of others around them, are being proposed hereunder:-
- A. Corona Rapid Test facility at all international airport checkpoints and other verification measures to ascertain whether or not the arriving passengers are carriers;
 - B. Mandatory quarantining of such individuals who eventually return, as per the relevant protocols to ensure that they don't hamper the efforts taken by India;
 - C. Since it is the summer vacation, colleges and schools in the vicinity of the respective airports be converted into temporary quarantine centres for the people returning from abroad, in order to curtail the spread of COVID-19 to the local population and;
 - D. Provision of 'pay-and-use quarantine facility' to accommodate those who are desirous of availing the same at their own cost & expense who can afford the same. Said option can be opted by the passenger during the time of booking their ticket.
- 8) Needless to mention that the Petitioner is well aware of the predicaments of the Respondents herein and appropriate decisions will have to be taken on a case to case basis in consultation with the authorities of each GCC Nation. .

F

The Petitioner is willing to render any kind of assistance to the best of his abilities to facilitate the steps proposed to be undertaken by the Respondents herein.

- 9) This Hon'ble Court has previously disposed of a writ petition after taking into cognizance the status report submitted by the Union of India regarding the steps taken to repatriate the Indian students and pilgrims stranded in Iran. This Hon'ble Court has also issued notice in a Writ Petition seeking immediate evacuation of stranded Indian Students in U.K.
- 10) Additionally, Air India through the operation of special cargo and rescue flights amidst the rise of Covid-19 has undertaken to operate special flights to repatriate citizens from London, Canada, Germany, France, Ireland etc.
- 11) Time is of the essence in the safety and well-being of these Indian Citizens and therefore, intervention of this Hon'ble Court is necessitated though the present Writ Petition.

LIST OF DATES

DATE	EVENT
11.03.2020	The World Health Organisation (WHO) taking cognisance of the severity and widespread nature of COVID - 19 declared it a pandemic.
11.03.2020	The Government of India issued a travel advisory after convening a meeting of high level group of Ministers for prevention and management of COVID-19. The following decisions were taken: <ol style="list-style-type: none">1. All existing visas, except diplomatic, official, UN/International Organizations, employment, project visas, stand suspended till April 15, 2020. This will come into effect from 1200 GMT on March 13, 2020, at the port of departure.

2. Visa-free travel facility granted to OCI cardholders is kept in abeyance till April 15, 2020. This will come into effect from 1200 GMT on March 13, 2020, at the port of departure.
3. Any foreign national who intends to travel to India for compelling reason may contact the nearest Indian Mission.
4. All incoming travellers, including Indians, arriving from or having visited China, Italy, Iran, Republic of Korea, France, Spain & Germany after February 15, 2020, shall be quarantined for a minimum period of 14 days. This will come into effect from 1200 GMT on March 13, 2020, at the port of departure.
5. Incoming travellers, including Indian nationals, are advised to avoid non-essential travel and are informed that they can be quarantined for a minimum of 14 days on their arrival in India.
6. Indian nationals are strongly advised to avoid all non-essential travel abroad. On their return, they can be subjected to quarantine for a minimum of 14 days.
7. International traffic through land borders will be restricted to designated check posts with robust screening facilities. These will be notified separately by Ministry of Home Affairs.
8. Provision for testing primarily for students/compassionate cases in Italy to be made and the collection for samples to be organized accordingly. Those tested negative will be allowed to travel and will be quarantined on arrival in India for 14 days.

14.03.2020 The Government of India, through Ministry of Home Affairs issued restriction on international passenger traffic through land check posts located at India-Bangladesh, India-Nepal, India-Bhutan, India-Myanmar and India-Pakistan in view of the spread of COVID-19.

1. The travel restrictions were made applicable only to third country nationals and not to Indian nationals.
2. Intensified health inspection at all these entry points and any traveller whether Indian or otherwise showing COVID-19 symptoms or with a recent travel history to one of seven outbreak countries namely Italy, Iran, China, Spain, France, Germany and Republic of Korea shall be subjected to quarantine.

16.03.2020 The Government of India, in continuation with the travel advisory issued on 11th March 2020, issued the following additional advisories:

1. Expanding compulsory quarantine for a minimum period of 14 days for passengers coming from/transiting through UAE, Qatar, Oman, and Kuwait. This will come into effect from 1200 GMT on 18th March 2020 at the port of first departure.
2. Travel of passengers from member countries of the European Union, the European Free Trade Association, Turkey and United Kingdom to India is prohibited with effect from 18th March 2020. No airline shall board a passenger from these nations to India with effect from 1200

GMT on 18th March 2020. The airline shall enforce this at the port of initial departure.

3. The above mentioned advisories were issued as temporary measures and shall be in force till 31st March 2020 and would be reviewed subsequently.

17.03.2020 In continuation of the travel advisory issued on 11th March 2020 and 16th March 2020, the following additional advisory was issued:

1. Travel of passengers from Afghanistan, Philippines, Malaysia to India is prohibited with immediate effect. No flight shall take off from these countries to India after 1500 hours Indian Standard Time (IST). The airline shall enforce this at the port of initial departure.
2. This instruction is a temporary measure and shall be in force till 31st March 2020 and will be reviewed subsequently.

19.03.2020 The Government of India through the Ministry of Health and Family Welfare issued additional travel advisories:

This was issued in continuation of the travel advisories issued on 11th, 16th and 17th March, 2020. The following additional advisories were issued:

1. No scheduled international commercial passenger aircraft shall take off from any foreign airport for any airport in India, after 0001 hours GMT of March 22, 2020 (i.e. 0531 hours Indian Standard Time (IST) of March 22, 2020). These instructions shall remain in force till 0001 hours GMT of March 29, 2020.

2. A maximum travel time of 20 hours is permissible for such commercial passenger aircraft to land in India.
3. As such, no incoming scheduled international commercial passenger aircraft shall be allowed to disembark its passengers on Indian soil (Foreigner or Indian) after 2001 hours GMT of March 22, 2020 (*i.e. 0131 hours IST of March 23, 2020).
4. These instructions are in addition to the travel restrictions/ advisories already issued and under implementation.
5. The above advisories were issued as temporary measures to restrict the spread of COVID-19, and were further subject to review by Government.

23.03.2020 The Government of India, through Ministry of Civil Aviation, in exercise of the powers conferred by sub-section (1) of section 88 of the Aircraft Act, 1934, the Central Government directed as follows:

1. The operation of all scheduled domestic flights (except all-cargo flights) by any aircraft operator holding an air operator certificate issued by DGCA India shall cease with effect from 2359 hours IST on 24th March, 2020. Such operators shall plan their operations in such a way that their flights land at the destination latest by 2359 hours IST on 24th March, 2020.
2. The operation of flights by the holders of Non-scheduled operator permit (except all-cargo flights, off-shore helicopter operations, medical evacuation flights or flights specifically approved by DGCA - India) and flights by

K

private aircraft operators shall also cease with effect from 2359 hours IST on 24th March, 2020 such operators shall plan their operations in such a way that their flights land at the destination latest by 2359 hours IST on 24th March, 2020.

3. The above restrictions shall not apply to aircraft/helicopter(s) belonging to or being operated on behalf of state/UT Governments.
4. All airports shall continue to function for handling the permitted flight operations.
5. The above instructions shall remain in force till 23:59 hours IST on 31st March 2020.

- 24.03.2020 In light of the magnitude of spread of the disease and consequent rise in mortality rates, Union of India through the Ministry of Home Affairs, invoked powers under the Disaster Management Act, 2005 and declared a 21 day country wide lockdown with a view to contain the spread of the virus.
- 26.03.2020 The Directorate General of Civil Aviation (DCGA) issued an announcement stating that all scheduled international commercial passenger services shall remain closed until 1830 hours (GMT) of April 14, 2020.
- 27.03.2020 This Hon'ble Court issued notice to Union of India in Writ Petition (Civil) No. 467/2020, *Mustafa MH vs. Union of India*, which highlighted the plight of 500 Indian citizens who had travelled to Qom (Iran) on a pilgrimage, and who were subsequently stranded following outbreak of Covid-19 seeking urgent humanitarian assistance.

This Hon'ble Court requested a status report be filed indicating the steps which have been initiated by Union of India to alleviate the hardships of the Petitioners, and thus ordered the listing of the writ petition on March 30, 2020.

- 28.03.2020 The Respondents No. 1 and 2 herein brought back 750 of the
to stranded Indian citizens from Qom, Iran, while undertaking to
30.03.2020 ensure that the remaining 250 Indians in Qom, who tested
positive for COVID-19, will receive such assistance as is required
for their safety and welfare.
- 31.03.2020 Air India, through the operation of special cargo and rescue
flights amid the rise of Covid-19 has undertaken the following
responsibilities:
1. Operated three special flights to London from April 8-10
to repatriate Canadians who are stranded in India amid the
21-day lockdown.
 2. Air India has signed a contract with the Canadian
government to repatriate its citizens amid the lockdown
that began on March 25.
 3. Air India has also signed contracts with the governments
of Germany, France and Ireland to repatriate their citizens
from India via special rescue flights. It has scheduled to
operate 18 such rescue flights beginning March 31, 2020.
- 01.04.2020 Mr. Iqbal Chekyad, General Secretary of INCAS Dubai
Kozhikode DT Committee wrote an e-mail to the Petitioner
seeking urgent help in evacuating the expatriate community from
the gulf region since the Corona cases are steadily on the rise and

M

the Expat community are in a particularly vulnerable situation.

Mr. Iqbal Chekyad requested the arrangement of special flights or ships to evacuate the following particularly vulnerable people in the Gulf countries:

1. Job seekers who came on visit visa and are now stuck in the Gulf.
2. Family members who are on visitors' visa.
3. Tourists who are stuck due to flight cancellation.
4. Expats who were supposed to fly back after cancelling VISA.
5. People who are given mandatory annual leave till further notice.
6. People who lost job during this pandemic and want to return home.
7. People are who are stuck in room without food, medical supplies or salary.
8. People who are stuck in the room with those who tested positive.

01.04.2020 This Hon'ble Court in Writ Petition (C) No.467 of 2020, *Mustafa MH v. Union of India & Another*, after taking into cognizance the status report submitted by the Union of India regarding the steps taken to repatriate the Indian students and pilgrims stranded in Iran, disposed off the Writ Petition with liberty to the Petitioners therein and to any aggrieved person to move the Hon'ble Court afresh or to apply for revival of proceedings.

03.04.2020 Mr. Habib Kallan Mohammed, the General Secretary of KMCC

Jeddah, the largest Indian diaspora organization in the world for immigrants in Arabian Peninsula wrote an e-mail to the Petitioner highlighting the plight of the expats in Gulf region and seeking an airlift of the Expats for repatriation with their families in India.

05.04.2020 A letter was addressed by General Secretary, Perambro Kootayma to the Petitioner herein raising concerns over difficulties in procurement of food and essential medical supplies. Further concerns were also raised regarding individuals who were on a visitors' visa looking for economic opportunities, Indians on tourist visas etc. Thus requesting immediate intervention by making necessary arrangements to evacuate the expats by either arranging special flights or cruise ships which can accommodate considerable number of people.

05.04.2020 A letter was addressed to the Petitioner by the President of Voice of Eramala raising concerns over the absence of any concerted efforts by the Government of India to evacuate expats from the gulf countries, specific concerns were raised with regard to individuals who had visited the countries on visas such as tourist visa, visit visa, etc. Further, it was informed that although individual efforts were being made by local expat organisations, the same cannot take the place of Government efforts owing to constraints in resources.

09.04.2020 Indian Cultural and Arts Society, Abu Dhabi wrote an e-mail to the Petitioner seeking immediate intervention and assistance in repatriating and providing medical care to the about 8.5 million Indians living in the Gulf region, highlighting the condition of Expats in Gulf region, and requesting the following actions be

taken by the Government of India:

1. Gulf countries agreed to send the expatriates to their home countries during this situation. So, Central government may kindly lift the ban of international flights for the Indian community from abroad.
2. Corona Rapid Test facility at all international airport checkpoints and verify whether or not the passengers are carriers.
3. Since it is the summer vacation, it is imperative that colleges and schools in the vicinity of the airports be converted into temporary quarantine centers for the people returning from abroad. This is essential to prevent the spread of the disease to people from foreign countries.
4. Pay and use quarantine facility can also provide to those who need a special facility for stay. Higher income group can use this facility at their convenience. This facility can be opted by the person at the time of booking the air ticket.
5. India government to ensure that none of the Airline will charge high rates during the transit period instead to charge moderate or subsidized rate.

09.04.2020 An e-mail was addressed to the Petitioner herein by the General Secretary, UAE PRO Association, highlighting the present situation of expats in UAE, requesting immediate assistance from the Government of India.

10.04.2020 Mr. Sathar Kunnil, General Convenor of the Kerala United District Association, Kuwait wrote an e-mail to the Petitioner bringing the following two urgent issues to the notice of the

Government of India:

1. The Kuwait Government announced Amnesty from April 01st to April 30th and many of Indians are still not able to utilize this as there is partial curfew in the country and complete lock down in some areas which is mostly resided by Indians especially Malayalee's. So kindly request the Kuwait Govt. to extend the Amnesty period till end of May such that people will be able to move around and prepare the necessary documents to be submitted to the authorities for enabling Amnesty.
2. There are many Indians stuck in Kuwait and can't reach to India since the Indian Government denies flight from Kuwait. Kindly permits flights as there are many people came on visit visas, many sick people including pregnant ladies and old aged citizens, many in urgency to reach their homeland and people coming to India under Amnesty offered by Kuwait Govt. So kindly instruct the concerned authorities to retain the flight services as soon as possible within the Amnesty period itself.

Type your text

10.04.2020

A letter was addressed to the Petitioner herein by the President of Friends ADMS, Abu Dhabi seeking immediate intervention regarding the spread of COIV-19 of the Indian diaspora in the gulf region.

Type your text

It was emphasized that the gulf countries are willing to send the expatriates to their home countries and if the Government of India decides expeditiously to lift the ban on international flights, their return could be facilitated. Further, compliance with the

Q

mandatory quarantine period was also promised by those desirous of returning to India.

10.04.2020 The Petitioner herein made a representation to the Ministry of External Affairs, Ministry of Civil Aviation, Ministry of Shipping, and Chief Secretary, Government of Kerala requesting urgent permission for operating chartered flights between India and GCC countries and take other appropriate measures to repatriate Indian citizens stranded therein. The following concerns were raised:

1. Absence of a lockdown initiated by GCC countries would expose the Indian citizens to greater risk of exposure to COVID -19.
2. Consistent increase in the number of persons affected by COVID-19 and consequential increase in the number of deaths reported in GCC countries.
3. A majority of Indian in GCC countries reside in cramped neighbourhood with shared amenities, therefore, compliance with social distancing is an impossibility.
4. High risk individuals such as old aged persons as well as pregnant women continue to be susceptible to COVID-19.
5. Unavailability of essential medical supplies, along with household requirements have brought the lives of Indians in GCC to a standstill.
6. Several Indians who are on visiting visas continue to be stranded as a result of lack of connectivity.

10.04.2020 A letter was addressed by the President of Overseas Indians Cultural Congress to the Petitioner herein. The letter addressed concerns regarding the plight of Indians stranded particularly in

R

Saudi Arabia. It was also stated that several Indians live in labour camps where, as a result of cramped spaces, social distancing norms are not complied with.

The letter, while acknowledging the efforts undertaken by the Government of Saudi Arabia, it is urged that efforts need to be undertaken by the Government of India to evacuate its citizens as there are several individuals with medical ailments, pregnant women, Indians employees who visited on a short duration and are required to now resume work, students, etc.

The letter also explicitly states that the Government of Saudi Arabia would render its co-operation to any evacuation efforts that would be undertaken by the Government of India.

10.04.2020 The Petitioner received a letter addressed by President and General Secretary, Kerala Muslim Cultural Centre expressing concerns over the large number of expatriates in the gulf region as several of them have been rendered unemployment as a result of the pandemic, and are also unable to return to India. Since scheduled flights may not be allowed to resume owing to the pandemic, it would be imperative that chartered flights are arranged and sent to evacuate the expatriates.

Further, it was also suggested that upon their return, they may be quarantined at the Gram Panchayat level, and the members of Kerala Muslim Cultural Centre are willing to assist as volunteers in the process.

The Petitioner has not received any response from the Ministry of External Affairs, Ministry of Civil Aviation, Ministry of Shipping, and Chief Secretary or Government of Kerala to the representation

made.

11.04.2020 Newspaper article dated 11.04.2020 published on “The Hindu” titled “UAE offers to help stranded Indians return” reveal that the UAE has offered help to stranded Indians to return to India.

11.04.2020 Hence, the present Writ Petition.

**IN THE HON'BLE SUPREME COURT OF INDIA
[CIVIL ORIGINAL JURISDICTION]
WRIT PETITION (CIVIL) NO. _____ OF 2020
[UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA]
PUBLIC INTEREST LITIGATION**

IN THE MATTER OF:

M.K. Raghavan,

.PETITIONER

versus

1. Union of India

Represented by Secretary

Ministry of External Affairs

South Block, New Delhi – 110 001.

2. Ministry of Civil Aviation

Represented by Secretary

Rajiv Gandhi Bhawan, Block B,

New Safdarjung Airport Area, Satya Sadan,

New Delhi – 110 003.

3. State of Kerala

Represented by Chief Secretary

Government Secretariat

Thiruvananthapuram

Kerala – 695 001.

...RESPONDENTS

are stranded and are unable to return home to their families and are struggling for basic sustenance.

- c) The Petitioner herein has no vested interest or ulterior motive in filing the present Petition, and the same has only been filed to secure larger public interest. The Petitioner is not guided by self-gain or for gain of any other person/institution/body. Further, the Petitioner is approaching this Hon'ble Court with clean hands and sole intention of addressing the larger public concern to secure the fundamental rights of the citizens of India.
 - d) That the Petitioner is not involved in any criminal, civil, revenue, or any other litigation that has any legal nexus with the issues involved in the present public interest litigation.
2. The instant Petition in the nature of Public Interest Litigation is filed under Article 32 of the Constitution of India by the Petitioner seeking, *inter alia*, a writ of mandamus directing the Respondents herein to permit airlines to bring Expat Indian citizens stranded in GCC countries back to India.
 3. The instant Petition has been filed under Article 32 of the Constitution of India to enforce fundamental rights secured to the citizens of India, particularly those enshrined under Articles 14 and 21 of the Constitution of India.
 4. That the Petitioner herein has the requisite *locus standi* to file the present public interest litigation. It is submitted that the Petitioner has already exhausted all other possible alternatives to secure the fundamental rights of the Expat Indian citizens by making representations to the Respondents herein.

PARTIES

5. The Petitioner herein is a Member of Parliament of Kozhikode Constituency in Kerala. The Petitioner has continually striven to secure and protect the fundamental rights of all citizens, particularly the marginalized

sections of the society in Kerala. It is pertinent to mention that Kozhikode is one of the 20 Lok Sabha constituencies in Kerala. Kozhikode which is part of Malabar region has many of its residents working in foreign Countries especially GCC Nations i.e. Saudi Arabia, Kuwait, the United Arab Emirates, Qatar, Bahrain, and Oman.

6. The Respondent No. 1 is the Union of India, through the Ministry of External Affairs, represented by its Secretary, which is the appropriate ministry responsible for the conduct of foreign relations of India.
7. The Respondent No. 2 herein is Union of India through the Ministry of Civil Aviation represented by its Secretary, which is the nodal ministry responsible for the formulation of national policies and programs for the regulation and development of civil air transport.
8. The Respondent No. 3 herein is the State of Kerala represented through the Chief Secretary.
9. All the Respondents referred to hereinabove are “State” within the meaning of Article 12 of the Constitution of India and hence amenable to writ jurisdiction of this Hon’ble Court under Article 32 of the Constitution of India.

BRIEF FACTS OF THE CASE

10. The facts and circumstances leading to the filing of this Writ Petition is as under:
 - 10.1 On 31.12.2019, Chinese Health officials informed the World Health Organization (shortly WHO) about a cluster of 41 patients with a mysterious pneumonia. Shortly after, Chinese authorities identified the virus that caused the pneumonia-like illness as a new type of coronavirus. And in about 2 months, the death caused by novel corona virus in China surpassed 774.
 - 10.2 Subsequently, global outbreak of COVID-19 began and cases appeared in Europe, Iran, South Korea and other regions of the

around the world. On 11.03.2020, WHO declared COVID-19 outbreak a pandemic.

10.3 On 11.03.2020, the Government of India issued a travel advisory after a meeting of High-Level Group of Ministers for prevention and management of COVID-19. The following decisions were taken:

- a. All existing visas, except diplomatic, official, UN/International Organizations, employment, project visas, stand suspended till April 15, 2020. This will come into effect from 1200 GMT on March 13, 2020, at the port of departure.
- b. Visa-free travel facility granted to OCI cardholders is kept in abeyance till April 15, 2020. This will come into effect from 1200 GMT on March 13, 2020, at the port of departure.
- c. Any foreign national who intends to travel to India for compelling reason may contact the nearest Indian Mission.
- d. All incoming travellers, including Indians, arriving from or having visited China, Italy, Iran, Republic of Korea, France, Spain & Germany after February 15, 2020, shall be quarantined for a minimum period of 14 days. This will come into effect from 1200 GMT on March 13, 2020, at the port of departure.
- e. Incoming travellers, including Indian nationals, are advised to avoid non-essential travel and are informed that they can be quarantined for a minimum of 14 days on their arrival in India.
- f. Indian nationals are strongly advised to avoid all non-essential travel abroad. On their return, they can be subjected to quarantine for a minimum of 14 days.

- g. International traffic through land borders will be restricted to Designated check posts with robust screening facilities. These will be notified separately by Ministry of Home Affairs.
- h. Provision for testing primarily for students/compassionate cases in Italy to be made and the collection for samples to be organized accordingly. Those tested negative will be allowed to travel and will be quarantined on arrival in India for 14 days.

10.4 On 14.03.2020, the Government of India through Ministry of Home Affairs issued restriction on international passenger traffic through Land Check Posts located at India-Bangladesh, India-Nepal, India-Bhutan, India-Myanmar and India-Pakistan in view of the spread of COVID-19.

- a. The travel restrictions were made applicable only to third country nationals and not to Indian nationals.
- b. Intensified health inspection at all these entry points and any traveller whether Indian or otherwise showing COVID-19 symptoms or with a recent travel history to one of seven outbreak counties namely Italy, Iran, China, Spain, France, Germany and Republic of Korea shall be subjected to quarantine.

10.5 On 16.03.2020, the Government of India in continuation of the travel advisory issued on 11th March 2020, the following additional advisory was issued:

- a. Expanding compulsory quarantine for a minimum period of 14 days for passengers coming from/transiting through UAE, Qatar, Oman, and Kuwait. This will come into effect from 1200 GMT on 18th March 2020 at the port of first departure.

- b. Travel of passengers from member countries of the European Union, the European Free Trade Association, Turkey and United Kingdom to India is prohibited with effect from 18th March 2020. No airline shall board a passenger from these nations to India with effect from 1200 GMT on 18th March 2020. The airline shall enforce this at the port of initial departure.
 - c. Both these instructions are temporary measures and shall be in force till 31st March 2020 and will be reviewed subsequently.
- 10.6 On 17.03.2020, the Government of India in continuation of the travel advisory issued on 11th March 2020 and 16th March 2020, the following additional advisory was issued:
- a. Travel of passengers from Afghanistan, Philippines, Malaysia to India is prohibited with immediate effect. No flight shall take off from these countries to India after 1500 hours Indian Standard Time (IST). The airline shall enforce this at the port of initial departure.
 - b. This instruction is a temporary measure and shall be in force till 31st March 2020 and will be reviewed subsequently.
- 10.7 On 19.03.2020, the Government of India, in continuation of the travel advisory issued on 11th March 2020, issued the following additional advisory:
- a. No scheduled international commercial passenger aircraft shall take off from any foreign airport for any airport in India, after 0001 hours GMT of March 22, 2020 (*i.e. 0531 hours Indian Standard Time (IST) of March 22, 2020). These instructions shall remain in force till 0001 hours GMT of March 29, 2020.

- b. A maximum travel time of 20 hours is permissible for such commercial passenger aircraft to land in India.
 - c. As such, no incoming scheduled international commercial passenger aircraft shall be allowed to disembark its passengers on Indian soil (Foreigner or Indian) after 2001 hours GMT of March 22, 2020 (*i.e. 0131 hours IST of March 23, 2020).
 - d. These instructions are in addition to the travel restrictions/ advisories already issued and under implementation.
 - e. The above are temporary measures to restrict the spread of COVID-19 and are subject to review by Government.
- 10.8 On 19.03.2020, globally, authorities reported more than 2,35,000 confirmed cases of COVID-19, with about 1,40,000 being active cases, roughly 85,000 recoveries and 10,000 casualties.
- 10.9 On 23.03.2020, the Government of India through Ministry of Civil Aviation passed an Order dated as follows:
- a. Whereas the Central Government is satisfied that a large part of India is threatened by the outbreak of Novel Corona Virus (COVID-19), which has resulted in a large number of casualties around the world and has been declared by the World Health Organisation as a pandemic, and
 - b. Whereas the Central Government considers that the movement of persons within the country by flights carrying a large number of persons together will aid and assist the spread of the above virus within India and for prevention of further spread of the epidemic disease, such movement of people must be restricted;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 88 of the Aircraft Act, 1934 (XXII of 1934), the Central Government hereby directs that -

- c. The operation of all scheduled domestic flights (except all-cargo flights) by any aircraft operator holding an air operator certificate issued by DGCA India shall cease with effect from 2359 hours. IST on 24th March, 2020. Such operators shall plan their operations in such a way that their flights land at the destination latest by 2359 hours. IST on 24th March, 2020.
- d. The operation of flights by the holders of Non-scheduled operator permit (except all-cargo flights, off-shore helicopter operations, medical evacuation flights or flights specifically approved by DGCA - India) and flights by private aircraft operators shall also cease with effect from 2359 hours. IST on 24th March, 2020 such operators shall plan their operations in such a way that their flights land at the destination latest by 2359 hours. IST on 24th March, 2020.
- e. The above restrictions shall not apply to aircraft/helicopter(s) belonging to or being operated on behalf of state/UT Governments.
- f. All airports shall continue to function for handling the permitted flight operations.
- g. The above instructions shall remain in force till 23:59 hours IST on 31st March 2020.

This was issued with the approval of the competent authority.

A true copy of the directions issued by the Government of India, through the Ministry of Civil Aviation dated 23.03.2020 is herewith marked and annexed as **ANNEXURE - P1 (Pages 32 to 33)**

10.10 Several countries around the world shut down their borders (including airports) and restricted the entry of non-citizens into their respective borders. From 23 March 2020, only the following guests are being allowed entry into UAE:

- i. UAE citizens and immediate family members.
- ii. Diplomatic passport holders.
- iii. Domestic helpers of UAE Nationals with UAE-API clearance.

10.11 On 24.03.2020, in light of the magnitude of spread of the disease and consequent rise in mortality rates, Respondent No.1, invoked powers under the Disaster Management Act, 2005 and declared a 21 day country wide lockdown with a view to contain the spread of the virus.

10.12 On 26.03.2020, the Directorate General of Civil Aviation (DCGA) issued an announcement stating that all scheduled international commercial passenger services shall remain closed until 1830 hours (GMT) of April 14, 2020.

A true copy of the announcement issued by Directorate General of Civil Aviation (DGCA) dated 26.03.2020 is herewith marked and annexed as **ANNEXURE - P2 (Pages 34)**

10.13 On 27.03.2020, this Hon'ble Court issued notice to Union of India in Writ Petition (Civil) No.467/2020, *Mustafa MH vs. Union of India*, which highlighted the plight of 500 Indian citizens who had travelled to Qom (Iran) on a pilgrimage, and who were subsequently stranded following outbreak of Covid-19 seeking

urgent humanitarian assistance. This Hon'ble Court requested a status report be filed indicating the steps which have been initiated by Union of India to alleviate the hardships of the Petitioners, and thus ordered the listing of the writ petition on March 30, 2020.

A true copy of the order passed by this Hon'ble Court in Writ Petition (Civil) No.467/2020, *Mustafa MH vs. Union of India* dated 27.03.2020 is herewith marked and annexed as **ANNEXURE - P3 (Pages 35 to 36)**

10.14 Between 28th to 30th March 2020, the Respondents No. 1 and 2 herein brought back 750 of the stranded Indian citizens from Qom, Iran, while undertaking to ensure that the remaining 250 Indians in Qom, who tested positive for COVID-19, will receive such assistance as is required for their safety and welfare.

10.15 On 31.03.2020, Air India, through the operation of special cargo and rescue flights amid the rise of Covid-19 has undertaken the following responsibilities:

- a. Operated three special flights to London from April 8-10 to repatriate Canadians who are stranded in India amid the 21-day lockdown.
- b. Air India has signed a contract with the Canadian government to repatriate its citizens amid the lockdown that began on March 25.
- c. Air India has also signed contracts with the governments of Germany, France and Ireland to repatriate their citizens from India via special rescue flights. It has scheduled to operate 18 such rescue flights beginning March 31, 2020.

10.16 On 01.04.2020, Mr. Iqbal Chekyad, General Secretary of INCAS Dubai Kozhikode DT Committee wrote an e-mail to the Petitioner seeking urgent help in evacuating the expatriate community from

the gulf region since the Corona cases are steadily on the rise and the Expat community are in a particularly vulnerable situation. Mr. Iqbal Chekyad requested the arrangement of special flights or ships to evacuate the particularly vulnerable people in the Gulf countries:

10.17 This Hon'ble Court in Writ Petition (C) No.467 of 2020, *Mustafa MH v. Union of India & Another*, after taking into cognizance the status report submitted by the Union of India regarding the steps taken to repatriate the Indian students and pilgrims stranded in Iran, disposed off the Writ Petition with liberty to the Petitioners therein and to any aggrieved person to move the Hon'ble Court afresh or to apply for revival of proceedings.

A true copy of the order passed by this Hon'ble Court in Writ Petition (Civil) No.467/2020, *Mustafa MH vs. Union of India* dated 01.04.2020 is herewith marked and annexed as **ANNEXURE - P4 (Pages 37 to 46)**

10.18 On 03.04.2020, Mr. Habib Kallan Mohammed, the General Secretary of KMCC Jeddah, the largest Indian diaspora organization in the world for immigrants in Arabian Peninsula wrote an e-mail to the Petitioner highlighting the plight of the Expats in Gulf region and seeking an airlift of the Expats for repatriation with their families in India.

10.19 On 03.04.2020, Mr. Faizal Kannothe, President of INCAS – Dubai Kozhikode District Committee wrote an e-mail to the Petitioner seeking immediate intervention to evacuate the below mentioned category of expats to India immediately:

- i. Job seekers who came on visit visa and are now stuck in the Gulf.

- ii. Family members who are on visitors' visa.
- iii. Tourists who are stuck due to flight cancellation.
- iv. Expats who were supposed to fly back after cancelling VISA.
- v. People who are given mandatory annual leave till further notice.
- vi. People who lost job during this pandemic and want to return home.
- vii. People are who are stuck in room without food, medical supplies or salary.
- viii. People who are stuck in the room with those who tested positive.

A true copy of the e-mail addressed to the Petitioner by President of INCAS – Dubai Kozhikode District Committee dated 03.04.2020 is herewith marked and annexed as **ANNEXURE - P5 (Pages 47)**

10.20 On 05.04.2020, a letter was addressed by General Secretary, Perambra Kootayma to the Petitioner herein raising concerns over difficulties in procurement of food and essential medical supplies. Further concerns were also raised regarding individuals who were on a visitors' visa looking for economic opportunities, Indians on tourist visas etc. Thus, requesting immediate intervention by making necessary arrangements to evacuate the expats by either arranging special flights or cruise ships which can accommodate considerable number of people.

A true copy of the e-mail addressed to the Petitioner by General Secretary of Perambra Kootayma dated 05.04.2020 is herewith marked and annexed as **ANNEXURE - P6 (Pages 48)**

10.21 On 05.04.2020, a letter was addressed to the Petitioner by the President of Voice of Eramala raising concerns over the absence of any concerted efforts by the Government of India to evacuate expats from the gulf countries, specific concerns were raised with regard to individuals who had visited the countries on visas such as tourist visa, visit visa, etc. Further, it was informed that although individual efforts were being made by local expat organisations, the same cannot take the place of Government efforts owing to constraints in resources.

A true copy of the e-mail addressed to the Petitioner by President of Voice of Eramala dated 05.04.2020 is herewith marked and annexed as **ANNEXURE - P7 (Pages 49)**

10.22 On 06.04.2020, Mr. Krishnan Kadalundi, President of Overseas Indian Cultural Congress – Kozhikode District wrote an e-mail to the Petitioner highlighting the plight of the vulnerable persons to since the lockdowns and seeking intervention in repatriation of the Expats to India.

A true copy of the e-mail addressed to the Petitioner by Mr. Krishnan Kadalundi, President of Overseas Indian Cultural Congress – Kozhikode District dated 06.04.2020 is herewith marked and annexed as **ANNEXURE – P8 (Pages 50)**

10.23 On 09.04.2020, Indian Cultural and Arts Society, Abu Dhabi wrote an e-mail to the Petitioner seeking immediate intervention and assistance in repatriating and providing medical care to the about 8.5 million Indians living in the Gulf region, highlighting the condition of Expats in Gulf region, and requesting the following actions be taken by the Government of India:

- i. Gulf countries agreed to send the expatriates to their home

countries during this situation. So, Central government may kindly lift the ban of international flights for the Indian community from abroad.

- ii. Corona Rapid Test facility at all international airport checkpoints and verify whether or not the passengers are carriers.
- iii. Since it is the summer vacation, it is imperative that colleges and schools in the vicinity of the airports be converted into temporary quarantine centers for the people returning from abroad. This is essential to prevent the spread of the disease to people from foreign countries.
- iv. Pay and use quarantine facility can also provide to those who need a special facility for stay. Higher income group can use this facility at their convenience. This facility can be opted by the person at the time of booking the air ticket.
- v. India government to ensure that none of the Airline will charge high rates during the transit period instead to charge moderate or subsidized rate.

A true copy of the e-mail addressed to the Petitioner by Indian Cultural and Arts Society, Abu Dhabi dated 09.04.2020 is herewith marked and annexed as **ANNEXURE - P9 (Pages 51 to 52)**

10.24 On 09.04.2020, an e-mail was addressed to the Petitioner herein by the General Secretary, UAE PRO Association, highlighting the present situation of expats in UAE, and requesting immediate assistance from the Government of India.

10.25 On 10.04.2020, Mr. Sathar Kunnil, General Convenor of the Kerala United District Association, Kuwait wrote an e-mail to the

Petitioner bringing the following two urgent issues to the notice of the Government of India:

- i. The Kuwait Government announced Amnesty from April 01st to April 30th and many of Indians are still not able to utilize this as there is partial curfew in the country and complete lock down in some areas which is mostly resided by Indians especially Malayalee's. So kindly request the Kuwait Govt. to extend the Amnesty period till end of May such that people will be able to move around and prepare the necessary documents to be submitted to the authorities for enabling Amnesty.
- ii. There are many Indians stuck in Kuwait and can't reach to India since the Indian Government denies flight from Kuwait. Kindly permits flights as there are many people came on visit visas, many sick people including pregnant ladies and old aged citizens, many in urgency to reach their homeland and people coming to India under Amnesty offered by Kuwait Govt. So kindly instruct the concerned authorities to retain the flight services as soon as possible within the Amnesty period itself.

A true copy of the e-mail addressed to the Petitioner by Mr. Sathar Kunnil, General Convenor of the Kerala United District Association, Kuwait dated 10.04.2020 is herewith marked and annexed as **ANNEXURE - P10 (Pages 53)**

10.26 On 10.04.2020, a letter was addressed to the Petitioner herein by the President of Friends ADMS, Abu Dhabi seeking immediate intervention regarding the spread of COIV-19 of the Indian diaspora in the gulf region. It was emphasized that the gulf

countries are willing to send the expatriates to their home countries and if the Government of India decides expeditiously to lift the ban on international flights, their return could be facilitated. Further, compliance with the mandatory quarantine period was also promised by those desirous of returning to India.

A true copy of the e-mail addressed to the Petitioner by President of Friends ADMS, Abu Dhabi dated 10.04.2020 is herewith marked and annexed as **ANNEXURE - P11 (Pages 54 to 55)**

10.27 The Petitioner herein made a representation to the Ministry of External Affairs, Ministry of Civil Aviation, Ministry of Shipping, and Chief Secretary, Government of Kerala requesting urgent permission for operating chartered flights between India and GCC countries and take other appropriate measures to repatriate Indian citizens stranded therein. The following concerns were raised:

- i. Absence of a lockdown initiated by GCC countries would expose the Indian citizens to greater risk of exposure to COVID -19.
- ii. Consistent increase in the number of persons affected by COVID-19 and consequential increase in the number of deaths reported in GCC countries.
- iii. A majority of Indian in GCC countries reside in cramped neighbourhood with shared amenities, therefore, compliance with social distancing is an impossibility.
- iv. High risk individuals such as old aged persons as well as pregnant women continue to be susceptible to COVID-19.
- v. Unavailability of essential medical supplies, along with household requirements have brought the lives of Indians in GCC to a standstill.

vi. Several Indians who are on visiting visas continue to be stranded as a result of lack of connectivity.

A true copy of the representation made to the Ministry of External Affairs, Ministry of Civil Aviation, Ministry of Shipping, and Chief Secretary, Government of Kerala dated 10.04.2020 is herewith marked and annexed as **ANNEXURE - P12 (Pages 56 to 57)**

10.28 On 10.04.2020, a letter was addressed by the President of Overseas Indians Cultural Congress to the Petitioner herein. The letter addressed concerns regarding the plight of Indians stranded particularly in Saudi Arabia. It was also stated that several Indians live in labour camps where, as a result of cramped spaces, social distancing norms are not complied with. The letter, while acknowledging the efforts undertaken by the Government of Saudi Arabia, it is urged that efforts need to be undertaken by the Government of India to evacuate its citizens as there are several individuals with medical ailments, pregnant women, Indians employees who visited on a short duration and are required to now resume work, students, etc. The letter also explicitly states that the Government of Saudi Arabia would render its co-operation to any evacuation efforts that would be undertaken by the Government of India.

A true copy of the e-mail addressed to the Petitioner by President of Overseas Indians Cultural Congress dated 10.04.2020 is herewith marked and annexed as **ANNEXURE - P13 (Pages 58)**

10.29 On 10.04.2020, the Petitioner received a letter addressed by President and General Secretary, Kerala Muslim Cultural Centre expressing concerns over the large number of expatriates in the gulf region as several of them have been rendered unemployment

as a result of the pandemic, and are also unable to return to India. Since scheduled flights may not be allowed to resume owing to the pandemic, it would be imperative that chartered flights are arranged and sent to evacuate the expatriates. Further, it was also suggested that upon their return, they may be quarantined at the Gram Panchayat level, and the members of Kerala Muslim Cultural Centre are willing to assist as volunteers in the process.

A true copy of the e-mail addressed to the Petitioner by the President and General Secretary, Kerala Muslim Cultural Centre dated 10.04.2020 is herewith marked and annexed as **ANNEXURE - P14 (Pages 59 to 60)**

10.30 However, no positive response has been obtained regarding the said representation. With due consideration to the imperative need for timely intervention, the Petitioner herein has approached this Hon'ble Court.

10.31 Newspaper report reveal that the UAE has offered help to stranded Indians to return to India. A True Copy of the Newspaper article dated 11.04.2020 published on "The Hindu" titled "UAE offers to help stranded Indians return" is herewith marked and annexed as **ANNEXURE - P15 (Pages 61)**

11. There is currently no viable (leave alone promising) vaccine and no approved course of targeted medicinal treatment for patients suffering from COVID-19. It is submitted that Indian citizens stranded in various airport run a high risk of contracting the infection with little to no possibility of receiving medical attention they would need as COVID-19 patients. The State has a responsibility towards its citizen especially since it is only institution that is equipped to handle such extra-ordinary *force majeure* situation. The Expat Indian citizens are running a real risk of never

returning home and are aggrieved by the apathy shown by the State towards its citizens.

12. The result of the above facts resulted in thousands of Indian citizens being stranded in GCC countries. While the Government of India has made requisite arrangements to bring back Indians stranded in various countries due to the lockdowns and travel ban in wake of the outbreak of the pandemic COVID-19, no concrete measures have been undertaken by the Government of India to repatriate Indian citizens who are stranded in GCC countries, living in continued risk of community spread of COVID-19 as a result of pitiable living conditions.
13. Considering the situations of Expat Indians stranded in the GCC countries especially high risk patients with pre-existing medical conditions extremely susceptible to the pandemic including several pregnant women and children it is necessary to repatriate them to India and provide necessary medical care. It would also be pertinent to note that a majority of the stranded individuals reside in cramped living spaces with practical impossibilities of complying with social distancing norms, further exposing them of contracting the virus.
14. Further, the present Petition is of utmost urgency as several Indian citizens stranded in UAE are on tourist visas or on transit visas and have already expired their permitted period of stay.

GROUND

15. The Petitioner herein is approaching this Hon'ble Court under Article 32 of the Constitution of India, on the following grounds inter alia –
 - A. BECAUSE, the fundamental rights of citizens, particularly those under Articles 14 and 21 of the Constitution of India stands severely jeopardised as a result of the travel embargo issued through a series of travel advisories imposed on the return of citizens. An epidemic of this magnitude would impose a positive duty on the State as the *parens*

patriae to ensure the safety and well-being of all citizens, including those residing outside the territorial borders of the nation.

- B. BECAUSE, it is to be noted that the grievance of the Petitioner in the instant case is regarding the inaction of the Respondents in granting permission to airline service providers who have expressed their willingness to operate flights to India to bring back the stranded citizens who have tested negative for COVID-19. It has also been reliably understood that the Government of UAE has accorded approval to operate flights to India. Therefore, these airlines are unable to proceed with the evacuation only as a result of closure of Indian airspace since the onset of the outbreak. Continued inaction on the part of the Respondents would pave the way for continued violation of fundamental rights of the Indian citizens who have been stranded in GCC countries.
- C. BECAUSE, the Respondents herein have made sustained efforts to ensure the safe return of several Indian citizens stranded in a number of countries, including Indian students who were stranded in Wuhan, China, which was the epicentre of the spread of COVID-19. This is indicative of possibility of fulfilment of State's obligations towards citizens who are stranded abroad. At this juncture, it would be of utmost relevance to note that constitutional jurisprudence has recognised that violation of right to equality is determined not by looking at the *intent* of State action, but by its *effect*. In light of this jurisprudential understanding, refusal to extend the same treatment to Indians who are stranded in GCC countries who wish to return, would reek of arbitrariness in State action, which would involve grave violation of Article 14 of the Constitution of India.
- D. BECAUSE, Sections 35 of the Disaster Management Act would be relevant in the context of evacuation of Indians in GCC countries.

Section 35 enables the Central Government to take measures, sub-section (2), sub-clause (g) empowers the Central Government to take steps requiring coordination with agencies of United Nations, international organisations and governments of foreign countries for the purposes of fulfilling the objectives of the Act. Therefore, it is amply clear that the duty of the Government would extend not only to its citizens within the territorial boundaries of the country, but also to those stranded outside. In furtherance of this, the Central Government may be directed by this Hon'ble Court to undertake positive steps to fulfil the mandate of the Disaster Management Act.

- E. BECAUSE, Section 36 of the Disaster Management Act provides for 'responsibilities of ministries or departments of government of India', clause (g) of the same states that it would be the responsibility of every Minister of Government of India to make available its resources to National Executive Committee or State Executive Committee for the purposes of responding *promptly* and *effectively* to any threatening disaster, clause (iii) of the same provides for evacuation, rescue, temporary shelter or other immediate relief. Therefore, by virtue of Section 36 (g) (iii), the Government of India is duty bound to ensure adequate measures are taken in order to ensure rescue of such persons along with temporary shelter, or other immediate relief as may be required.
- F. BECAUSE, it would be pertinent to note the distinction which lies in pandemic policies which are the domain of the respective Governments, and instances of infringement of constitutionally-guaranteed rights as a result of action, or the absence thereof, on the part of the State. The latter would call for the intervention of this Hon'ble Court. Therefore, a heavy burden also lies on this Hon'ble Court to provide a dispassionate forum for redressal of urgent matters, involving constitutionally guaranteed

rights, which arise in this difficult time. The institution's role is based on the fundamental tenet that it must serve as a check on State power. While the respective Governments continue to enjoy absolute autonomy in the field of policy making and its consequent implementation, the constitutional Courts are required to scrutinise and ensure that any such measures which are undertaken do not encroach upon fundamental rights secured under Part III of the Constitution of India.

- G. BECAUSE, the travel embargo which has been imposed has created a disproportionate impact on the lives of several Indians who have been stranded in GCC countries. This would pose a positive obligation on the part of the State to mitigate the disproportionate impact that has been caused by *its own* decision to impose a travel embargo. Further, the dangers of such blanket prohibition is disproportionately served upon low income clusters of people.
- H. BECAUSE, it would be important to note the repercussion of their inability to return as a result of blanket travel embargo, on their right to health which is an important facet of Article 21 of the Constitution of India. The blanket prohibition on their return has left them unable to seek access to essential medical healthcare, neither in their home country nor in the country in which they reside. The positive duty that is cast upon the Government transcends territorial boundaries of the country, and therefore, it would be of utmost importance that directions are issued to the Government to consider the grant of requisite permission to airlines which have expressed desire to assist in the process of their return.
- I. BECAUSE, time is of the essence in light of the imminent threat posed by the epidemic. This would require the Government to place consideration on representations made by airlines who are willing to assist in the process of return of Indian nationals, and the subsequent grant of permissions in

a time bound manner. A set of stringent guidelines ought to be issued in order to ensure that there lies objectivity and swift decision-making in the grant of such permissions, which may be decided on a case-to-case basis.

- J. BECAUSE, the Respondents herein are duty-bound to ensure the safety of Indians in GCC countries which would require the following concerted efforts:
- i. Establishment of a specialised team in the Embassy in each of the GCC Nations and in India, solely dedicated to redress the concerns raised by the Indians in those GCC Nations, with traceable contact numbers and e-mail addresses in order to ensure timely assistance.
 - ii. Determine the total number of citizens who are stranded and facing difficulties in the GCC Nations and who are wanting to return to India. Assistance of various organizations/individuals who are willing to offer their services may be availed for the same.
 - iii. Prioritise the urgent cases who need immediate deportation like pregnant women, those suffering from serious illness, immunocompromised, who have to attend to any calamity in the family in India, whose visas have expired, those who have lost their jobs, those whose sponsorship is being cancelled, those who have been tested negative for COVID-19, etc;
 - iv. Financial assistance from the Union of India to ensure smooth repatriation for majority of those citizens, since most of them are engaged in blue collar jobs with daily/manual wages and would thus, not be in a financial position to fund their travel back home;

- v. Government initiatives to bring back desirous Indians stranded in GCC Nations may be ensured either through airways or waterways wherever possible;
 - vi. Lifting of ban on international flights and grant of specific approval for these special flights as there are many among the stranded population, who are desirous of returning to India at their own cost & expense, be it through commercial flight or through a chartered flight that maybe arranged by some operators;
 - vii. Ensure timely decision-making with regard to grant of permission for airlines willing to assist the Government in ensuring the return of Indians stranded in GCC Nations and;
 - viii. Deputation of a medical team to GCC Nations to ensure adequate medical assistance is provided to those who are infected by COVID-19 with due regard to the laws and regulations of such nations.
 - ix. Grant the requisite permission to airlines which are willing to bring back Indian citizens stranded in GCC countries.
 - x. Establishment of a specialised team solely dedicated to redress the concerns raised by Indians in GCC countries, with traceable contact numbers and e-mail addresses in order to ensure timely assistance.
 - xi. Depute a medical team to GCC countries to ensure adequate medical assistance is provided to those who are infected by COVID-19 with due regard to the officials of such nations.
- K. BECAUSE, the interest of everyone can be safeguarded by Certain other measures which may be kept in mind to ensure the safety of these Indians upon return, as also to ensure the safety of others around them, are being proposed hereunder:-

- i. Corona Rapid Test facility at all international airport checkpoints and other verification measures to ascertain whether or not the arriving passengers are carriers;
- ii. Mandatory quarantining of such individuals who eventually return, as per the relevant protocols to ensure that they don't hamper the efforts taken by India;
- iii. Since it is the summer vacation, colleges and schools in the vicinity of the respective airports be converted into temporary quarantine centres for the people returning from abroad, in order to curtail the spread of COVID-19 to the local population and;
- iv. Provision of 'pay-and-use quarantine facility' to those who may need a special facility for their stay. Said option can be exercised by the Higher Income Group as per their convenience & choice; and can be opted by the passenger during the time of booking their ticket.

16. The Petitioner herein craves the liberty of this Court to add, alter, modify or amend the grounds during the pendency of this Writ Petition, if necessary.

17. The Petitioner herein states that he has not filed a similar Writ Petition/ PIL or any other Petition before this Hon'ble Court or any other Court/s involving the subject matter of this Petition, which is pending or has been disposed of.

18. This Hon'ble Court has the jurisdiction to entertain the present Writ Petition.

19. This writ petition is made *bona fide* and in the interest of justice.

20. That the annexure filed with the petition are true copies of the respective originals.

PRAYER

In the facts and circumstances stated above, it is most humbly prayed that this Hon'ble Court may be pleased to issue appropriate writs, orders and directions as set out below:

- a. Issue a writ of mandamus, or any appropriate writ, order or direction to the Respondents to establish a specialised team to identify the Indian citizens stranded in GCC Nations who require to be evacuated immediately;
- b. Issue a writ of mandamus, or any appropriate writ, order or direction to the Respondents to facilitate evacuation of such citizens at the cost of Union of India for those who cannot afford the travel back to India;
- c. Issue a writ of mandamus, or any appropriate writ, order or direction to the Respondents to lift the ban on international flights and grant of specific approval for these special flights as there are many among the stranded population, who are desirous of returning to India at their own cost & expense, be it through commercial flight or through a chartered flight that maybe arranged by some operators;
- d. Issue a writ of mandamus, or any appropriate writ, order or direction to the Respondents to depute a medical team to GCC Nations to ensure adequate medical assistance is provided to those who are infected by COVID-19 with due regard to the laws and regulations of such nations;

- e. Issue a writ of mandamus, or any appropriate writ, order or direction to the Respondents to ensure that the citizens who are not stranded in the GCC Nations are quarantined and provided all medical and health facilities are prescribed by the WHO; and
- f. Pass any other order or relief as this Hon'ble Court may deem fit and proper under the circumstances of the present case in the interest of justice, equity, and good conscience.

DRAWN BY

A. Karthik & Sarveshwar K.

Advocates

FILED BY:

(A. KARTHIK)

ADVOCATE FOR THE PETITIONER

DRAWN ON: 11.04.2020

FILED ON: 11.04.2020

NEW DELHI