

IN THE HON'BLE SUPREME COURT OF INDIA
EXTRAORDINARY WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. _____ OF 2020

(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

...Petitioner No.1



...Petitioner No.2

VERSUS

Union of India, Through The Home Secretary, Cabinet Secretariat,
Rashtrapati Bhawan, New Delhi – 110004

...Respondent No.1

Ministry of Health And Family Welfare, Through Secretary Room
No. 348, A-Wing, Nirman Bhawan, New Delhi – 110011

...Respondent No.2

Indian Council of Medical Research, through Director General,
Department of Health Research, V. Ramalingaswami Bhawan,
Ansari Nagar, New Delhi – 110029

...Respondent No.3

**A WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA IN THE NATURE OF PUBLIC
INTEREST LITIGATION FOR ISSUANCE OF A WRIT IN
THE NATURE OF MANDAMUS OR ANY OTHER
APPROPRIATE WRIT AGAINST THE RESPONDENTS
THEREBY PRAYING BEFORE THIS HON'BLE COURT
TO ISSUE DIRECTIONS FOR COLLECTION OF
SAMPLES AND TESTING OF ANY/ALL
ASYMPTOMATIC PERSONS IN THE CITIES AND/OR
DISTRICTS AFFECTED WITH CORONAVIRUS (COVID-
19) USING THE 'POOLING' METHODS FOR THE
SAMPLES IN ORDER TO EXPONENTIALLY INCREASE
THE NUMBER OF TESTS CONDUCTED; TO SPEED UP
THE PROCESS OF TESTING EITHER THROUGH
PROVISION OF MOBILE TESTING FACILITIES DOOR
TO DOOR SAMPLE COLLECTION IN ORDER TO
ENSURE WIDESPREAD ACCESSIBILITY OF THE**

TESTING FACILITIES AND MEDICAL AND TO PREPARE AND MAKE AVAILABLE THE DATA, ONLINE, OF THE TESTS CONDUCTED, AREAS COVERED BY TESTING AND SAMPLE COLLECTION, SEGREGATED INTO TWO CATEGORIES I.E. SYMPTOMATIC AND ASYMPTOMATIC, CONTAINING NECESSARY DETAILS SUCH AS AREAS COVERED, TOTAL NO. PERSONS TESTED, WHETHER THE PERSON FOUND POSITIVE WAS SYMPTOMATIC OR ASYMPTOMATIC OR WITH ANY TRAVEL HISTORY, ETC.;

TO,

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

THE HUMBLE PETITION OF THE PETITIONERS

ABOVE- NAMED

MOST RESPECTFULLY SHOWETH:

1. That the Petitioners above named have preferred the instant Public Interest Litigation vide a civil writ petition seeking

an appropriate order or direction from this Hon'ble Court directing the Respondents to start 'pooling' the samples in order to exponentially increase the number of tests conducted in a day; to start conducting tests of asymptomatic persons in the cities and/or districts affected with Coronavirus (COVID-19) as a precautionary measure in order to prevent/stop further spread and causing of deaths due to outbreak of the COVID-19 Corona virus; to start Mobile Testing Facilities in order to ensure widespread accessibility of the testing facilities and medical aid, facilitate door to door testing and/or thermal screening in the affected areas to identify the exact number of persons affected with the outbreak of COVID-19 and provide them with medical help and facilities.

2. That the Petitioners are acting bonafide for the welfare and benefit of the society as a whole in filing the present PIL before this Hon'ble Court. The Petitioners have no vested personal interest in the subject.
3. That On 18.02.2020 An article published by The Times of India reported that in China on 12.12.2019 doctors

first noticed a Chinese patient display symptom of a highly contagious disease; Furthermore on 26.12.2019 it was reported that in the capital of Hubei Province, Central China, scientists began studying the novel contagious disease, wherein the preliminary genetic sequencing data indicated presence of a coronavirus severe acute respiratory syndrome (SARS). Moreover, on 22.01.2020 The Chinese Authorities ordered quarantine of more than 60 million people in the Hubei Province, Wuhan. Copy of an article published in the Times of India dated 18.02.2020 titled '4 key dates, 4 missed chances: How China failed to contain coronavirus' is marked and annexed as **ANNEXURE 1**.

4. That on 29.02.2020 An article published by the Live Mint reported that India is yet to develop a robust primary care, quality emergency response infrastructure. Furthermore, it emphasized on need of our Country to promptly review its lab capabilities to ensure effective and quick diagnosis if the virus spreads in-country. At least one hospital per city should be made ready with quarantine facility. Copy of the article published in Live Mint dated 29.02.2020 titled 'Coronavirus: Crucial India be extra

vigilant, health experts say' is marked and annexed as **ANNEXURE 2.**

5. That on 05.03.2020 Suo-moto statement of the Hon'ble Health Minister stated that World Health Organization (WHO) has declared this outbreak as a "Public Health Emergency of International Concern" (PHEIC) on 30th January 2020 and raised the level of global risk to "very high" on 28th February, 2020. Though WHO has not declared COVID-19 to be Pandemic, it has asked the countries to remain prepared. It is worth highlighting that India initiated required preparedness and action at field level since 17th January itself, much before the advice from WHO. Copy of the Suo-moto statement of the Hon'ble Minister of Health dated 05.03.2020 is marked and annexed as **ANNEXURE 3.**

6. That on 06.03.2020 It was documented that since the outbreak of COVID-19 was reported and China reported 1,02,050 with 3,494 deaths; Iran reported 4,747 cases with 124 deaths; Italy reported cases 4,636 with 197 reported deaths.

7. That on 06.03.2020 The Ministry of Health and Family Welfare, Government of India notified suspension of visas for persons travelling from Republic of China, Italy, Iran, South Korea, Japan. Copy of the Notification released by the Ministry of Health and Family Welfare dated 06.03.2020 is marked and annexed as **ANNEXURE 4**.

8. That on 07.03.2020 An article published on BBC it was reported that India had tested more than 6,00,000 people for the virus at the country's 21 airports and 77 seaports as stated by Health Minister Harsh Vardhan. He stated that "India is thoroughly prepared to handle any situation that could emerge. We are alert, meticulous and conscious," The article also reported that all this sounds impressive, but may still be not enough to prevent an outbreak. For one, the real extent of the spread of the infection may not be clear, despite the screening at air and sea ports. The incubation period - between infection and showing any symptoms - lasts up to 14 days. Some researchers say it may even be up to 24 days. That means many people who test negative at air and seaports may be carrying the infection into India's teeming cities and

villages. Chief Scientist at the WHO Soumya Swaminathan said “Airport entry screening is good and should be continued, but that's not going to be sufficient now. We have to put in place other surveillance mechanisms through systems India already has.” “What is needed is an agile and evidence based graded response, adapting to the changing epidemiology of the disease. Being a vast country, actions and decisions will need to be decentralised, but well-coordinated,”. Copy of the article published in BBC titled as “Coronavirus: Is India prepared for an outbreak?” dated 07.03.2020 is marked and annexed as **ANNEXURE 5**.

9. That on 10.03.2020 An article published in Financial times reported how are the hardest hit countries are responding against the Corona Virus. The report published in the article states that South Korea conducts mass public testing programme in response to a severe outbreak in the country. Officials have sought to test anyone who might have been exposed to the virus, including many asymptomatic patients as well as those with symptoms. Italy adopted a similar strategy to South Korea and has tested anyone who might have been exposed to the virus, as well

as those with symptoms. A virologist stated that “Especially during the initial stage of the contagion, the strategy of over testing was certainly right and sensible.” Copy of the article titled as “Coronavirus testing: how are the hardest-hit countries responding?” published in Financial Times dated 10.03.2020 is marked and annexed as **ANNEXURE 6**.

10. That on 11.03.2020 WHO declared coronavirus as a pandemic which implies that the disease is spreading in multiple countries of the world at the same time.
11. That on 12.03.2020 The Central invoked Section 2 of the Epidemic Disease Act, 1897 with a direction to all the States and Union Territories which states as follows:

“Section 2 of the Act empowers state governments/UTs to take special measures and formulate regulations to contain any outbreak. The Section says: When at any time the state government is satisfied that the state or any part thereof is visited by, or threatened with, an outbreak of any dangerous epidemic disease, the state government, if it thinks that the ordinary provisions of the law for the time being in force are insufficient for the purpose, may take, or require or

empower any person to take, such measures and, by public notice, prescribe such temporary regulations to be observed by the public or by any person or class of persons as it shall deem necessary to prevent the outbreak of such disease or the spread thereof, and may determine in what manner and by whom any expenses incurred (including compensation if any) shall be defrayed.

In particular and without prejudice to the generality of the foregoing provisions, the state government may take measures and prescribe regulations for the inspection of persons travelling by railway or otherwise, and the segregation, in hospital, temporary accommodation or otherwise, of persons suspected by the inspecting officer of being infected with any such disease.

Section 3 is on penalty: "Any person disobeying any regulation or order made under this Act shall be deemed to have committed an offence punishable under section 188 of the Indian Penal Code (45 of 1860);

Section 4; Protection to persons acting under Act: "No suit or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under

this Act (legal protection to implement the Act).”

12. That on 14.03.2020 An article published by the Scroll.in reported that India has tested the lowest number of persons for COVID-19, estimated around 5900 persons (as of 13.03.2020), as compared to other countries. It reported opinion of experts stating the India’s narrow criteria for testing as being the reason for low figures for COVID-19. Copy of an article published in Scroll.in dated 14.03.2020 titled ‘Is India testing enough for coronavirus’ is marked and annexed as **ANNEXURE 7**.

13. That on 20.03.2020 Indian Council of Medical Research Published a “Revised Strategy of COVID19 testing in India (Version 3, dated 20/03/2020)”, with the objective “To provide reliable diagnosis to all individuals meeting the inclusion criteria of COVID19 testing.” The current strategy talks about testing of “All symptomatic individuals” and “Asymptomatic direct and high-risk contacts of a confirmed case should be tested once between day 5 and day 14 of coming in his/her contact.” Copy of the Revised Strategy of COVID19 testing in India dated 20.03.2020 is marked and annexed as **ANNEXURE 8**.

14. That on 23.03.2020 An article published in the World Economic Forum reported that people with mild or no symptoms could be spreading COVID-19. As many as six in 10 people infected with coronavirus may be unaware that they have the disease, according to a number of papers studying the outbreak. Researchers suspect there is an undetected pool of people who have mild or no symptoms, according to an article in Nature. That is because an increasing number of infected people have not travelled to epidemic hotspots, or come into contact with people with confirmed cases of COVID-19. This is different from unreported cases, those that are missed because authorities are not carrying out enough tests or people in the early stages of the virus who are not yet showing symptoms. Furthermore, it was reported that a new study suggests there were 37,400 people with the virus in Wuhan who authorities did not know about, and who had mild or no symptoms but could still be contagious. Copy of the article dated 23.03.2020, published in World Economic Forum, titled “People with mild or no symptoms could be spreading COVID- 19”, is marked and annexed as **ANNEXURE 9**.

15. That on 24.03.2020 An article published in Germany's International Broadcaster Deutsche Welle (DW) reported that upto 30% of the cases of coronavirus are asymptomatic. Information released by the Chinese government, and reported in the South China Morning Post newspaper, suggests that the number of "silent carriers" – that's people who have tested positive for the Covid-19 coronavirus but who show no symptoms, or delayed symptoms — could be as high as 30%. Those Chinese data have been confirmed by a group of Japanese experts, led by Hiroshi Nishiura, an epidemiologist at Hokkaido University. Among the Japanese patients evacuated from Wuhan, the center of the coronavirus outbreak, 30.8% were asymptomatic. The Japanese experts have written a letter to the International Journal of Infectious Diseases and stated that “substantial number of cases are underdiagnosed.” The article also states that in most European Union countries and the USA, where only people with symptoms are tested for coronavirus, the number of infections is rising rapidly. Meanwhile, in China and South Korea, where the earliest cases of COVID-19 were detected, the number of new infections is in decline. In both countries, people are tested regardless of whether they show symptoms or not. Copy of

the article titled “Up to 30% of coronavirus cases asymptomatic”, published in Germany’s International Broadcaster Deutsche Welle (DW) dated 24.03.2020 is marked and annexed as **ANNEXURE 10**.

16. That on 25.03.2020 An article published by the medRxiv reported the development of pooled testing strategy wherein randomized group testing optimized per country could double the number of tested individuals from 1.85M to 3.7M using only 671k more tests. This strategy is well-suited to supplement testing for asymptomatic and mild cases who would otherwise go untested, and enable them to adopt behavioral changes to slow the spread of COVID-19. This article proposes the testing of individuals who do not meet current test criteria, as critical care resources are not essential for asymptomatic cases. Individuals with a high case probability can be excluded from groups and tested individually using either existing criteria for screening or newly developed survey instruments. Among individuals presently excluded by testing guidelines, grouped testing is an effective strategy for finding asymptomatic cases that would otherwise be missed. Copy of the article dated 25.03.2020 published by

the medRxiv, titled as “Evaluation of Group Testing for SARS-CoV-2 RNA” is marked and annexed as **ANNEXURE 11.**

17. That on 25.03.2020 A news article published on Nebraska TV reported that Governor Pete Ricketts of Nebraska has stated that state is 'pooling' tests now, so combining five tests into one test tube. If it comes back 'negative,' then you know all were negative; if one was 'positive,' then those five will have to be retested. So that expands capacity to 400+ tests a day by public labs. Copy of the news article dated 25.03.2020 published by the NebraskaTV, titled as “Governor Ricketts: State working to expand coronavirus testing”, is marked and annexed as **ANNEXURE 12.**

18. That on 30.03.2020 An article published on Contagion reported that a case study of a family in Zhejiang province, China, shows how coronavirus disease 2019 (COVID-19) can spread before symptoms of the disease emerge. The large number of patients infected with the virus who show few or no symptoms— estimated to be as high as

80%. The study also reported that “These ‘silent patients may remain undiagnosed and be able to spread the disease to large number of people,”. Copy of the article published on Contagion dated 30.03.2020 titled as “Case Study Shows Asymptomatic Transmission of COVID-19 in China” is marked and annexed as **ANNEXURE 13**.

19. That on 30.03.2020 An article published in India Today Reported that the number of cases of infected persons in India has crossed the mark of 1200*. Copy of the article dated 30.03.2020 published in the India Today titled ‘Coronavirus in India: With over 80 new cases, tally crosses 1200-mark’ is marked and annexed as **ANNEXURE 14**.

20. That on 01.04.2020 An article published in the Economic Times reported that for the first time since the coronavirus outbreak, China on Wednesday revealed the presence of 1,541 asymptomatic cases carrying the deadly novel coronavirus, raising concerns of a second wave of infections amid the relaxation of stringent measures in the country initiated to contain the deadly disease. Copy of the article dated 01.04.2020, published in the Economic Times,

titled as “China reveals 1,541 asymptomatic COVID-19 cases amid concerns of second wave of infections”, is marked and annexed as **ANNEXURE 15**.

21. That on 06.04.2020 An article published in India Today reported that China sees rise in new coronavirus cases, asymptomatic patients. The number of asymptomatic cases also surged, as Beijing continued to struggle to extinguish the outbreak despite drastic containment efforts. The National Health Commission said in a statement on Monday that 78 new asymptomatic cases had been identified as of the end of the day on Sunday. Copy of the article dated 06.04.2020 published in India Today titled as “China sees rise in new coronavirus cases, asymptomatic patients”, is marked and annexed as **ANNEXURE 16**.

22. That on 07.04.2020 An article published on AA.com reported that the experts have urged more testing as the COVID-19 cases rise in India. It was stated by the former health secretary K Sujata Rao that “India’s strategy was conservative and limited to only those persons with a travel history or connected to such individuals. Unless we test

much more, we will never know the actual extent of the problem and understand whether our interventions are adequate or falling short.” It was also reported that the Director Washington based Centre for Disease Dynamics, Economy and Policy stated that “India has among the lowest rates of testing in the world but is picking up speed. There is still a long way to go and there is simply no way for any country to win against COVID-19 without extensive testing”. Copy of the article dated 07.04.2020, published in AA.com titled as “India: Experts urge more testing as COVID-19 cases rise” is marked and annexed as **ANNEXURE 17.**

23. That on 07.04.2020 ^A An article published in Scroll.in reported that a teenager and a 60-year-old man with no symptoms test positive in Kerala. He was asymptomatic but was still tested as he had returned from a country with a number of Covid-19 cases. Copy of the article dated 07.04.2020 published in Scroll.in, titled as “Covid-19: A teenager and a 60-year-old man with no symptoms test positive in Kerala”, is marked and annexed as **ANNEXURE 18.**

24. That on 07.04.2020 An article published in the Economic Times reported that a study by the Indian Council of Medical Research suggests that 1 covid patient can infect 406 people in 30 days in absence of self-isolation. Copy of the article dated 07.04.2020 published in Economic Times, titled as “1 covid patient can infect 406 people in 30 days in absence of self-isolation: Govt”, is marked and annexed as **ANNEXURE 19.**
25. That on 08.04.2020 An article published on Business Standard reported that India has found 773 new novel coronavirus (Covid-19) cases in 24 hours, taking the total count and death toll to 5,480 and 164 respectively. Copy of the article dated 08.04.2020 published in the Business Standard, titled as “Coronavirus LIVE updates: India reports 773 new cases, 32 deaths in 24 hrs”, is marked and annexed as **ANNEXURE 20.**
26. That on 09.04.2020 Indian Council of Medical Research Published a “Revised Strategy of COVID19 testing in India (Version 4, dated 09/04/2020)”, This current strategy talks about testing of “All symptomatic contacts of laboratory confirmed cases” and only “Asymptomatic direct and high-risk contacts of a confirmed

case should be tested once between day 5 and day 14 of coming in his/her contact.” Copy of the Revised Strategy of COVID19 testing in India dated 20.03.2020 is marked and annexed as **ANNEXURE 21**

27. That the statistics reported by the Coronavirus (COVID-19) Worldometer indicate 1,876,296* cases worldwide, resulting in 116,096 deaths. Whereas 9240* cases in India resulting in 331* deaths. Copy of the Worldometer data is marked and annexed as **ANNEXURE 22.**

28. That the source of knowledge of facts of the present case has been obtained by the Petitioners through media, newspaper reports and reportable precedents of this Hon’ble Court.

29. That the present petition is being filed in the interest of justice for, fundamental and statutory rights, dignity of the public at large. Some of the people being represented in the present PIL may not be aware of their legal rights being infringed and may not have the economic means to approach this Hon’ble court.

30. That the petitioners have not instituted any similar petition before this Hon'ble Court or any other court of Law.
31. That the present petition is being filed before this Hon'ble Court because of the large-scale safety and security issue involved in the matter in connection with the outbreak of novel coronavirus (COVID-19). This Hon'ble Court being empowered under Article 142 of the Constitution of India, to pass any order or decree as is necessary for doing complete justice for any cause or matter pending before it, and the said decree shall be enforceable throughout the territory of India.
32. That the Petitioners have preferred the present petition on the following amongst other grounds

GROUND

- A. BECAUSE this Hon'ble Court is the watchword of the Constitution of India which enshrines the Right to Life under Article 21 and also encompasses the Right to Safety and Safe Environment under the same article. Furthermore, the Directive Principles of the State under Article 47 of the Constitution imbibes the Duty of the State to improve public health.
- B. BECAUSE Coronavirus (COVID-19) is an outbreak of a respiratory disease caused by a novel (new) coronavirus that was first detected in China and which has now been detected in more than 210 locations internationally. The virus has been named "SARS-CoV-2" and the disease it causes has been named "coronavirus disease 2019" (hereinafter referred to as COVID-19). Furthermore, on January 30th, 2020, World Health Organization declared the outbreak as a "public health emergency of international concern" (PHEIC)..It is pertinent to note that on March 11, 2020 WHO characterized and declared COVID-19 as a pandemic.

C. BECAUSE the symptoms exhibited by persons who have contracted COVID-19 are rudimentary such as cold, cough, fever, headache; which may go undetected without adequate screening and other preventive measures especially when the said disease is known to spread through person-to-person contact and the virus is known to survive for a number of hours on surfaces as well.

D. BECAUSE it has been reported in an article by Live Mint dated 29.02.2020 that ‘India is still struggling with an evolving public health system. Experts hold that with a modest 1.3% of GDP spent on health, India is yet to develop robust primary care, quality emergency response infrastructure, and a surveillance system that can easily detect infections. There is also a lack of strong case record management and care continuum integration backed by universal financing.’ Furthermore, it quoted Siddhartha Bhattacharya, Secretary General, NATHEALTH Healthcare Foundation of India “Internally, as a second line of control, India needs to quickly look at its lab capabilities to ensure effective and quick diagnosis of the virus’ spread in the country. At least one hospital per city should be made ready with quarantine

facility.”

- E. BECAUSE it has been reported in an article by BBC dated 07.03.2020, that Chief Scientist at the WHO Soumya Swaminathan has said “Airport entry screening is good and should be continued, but that's not going to be sufficient now. We have to put in place other surveillance mechanisms through systems India already has.” “What is needed is an agile and evidence based graded response, adapting to the changing epidemiology of the disease. Being a vast country, actions and decisions will need to be decentralised, but well-coordinated.
- F. BECAUSE it has been reported in an article by Financial Times dated 10.03.2020, that South Korea has conducted mass public testing programme in response to a severe outbreak in the country. Officials have sought to test anyone who might have been exposed to the virus, including many asymptomatic patients as well as those with symptoms. Italy adopted a similar strategy to South Korea and has tested anyone who might have been exposed to the virus, as well as those with symptoms. A virologist stated that “Especially during the initial stage of the contagion, the strategy of over testing was

certainly right and sensible.”

G. BECAUSE on 11.03.2020, the Central Government invoked the Epidemic Diseases Act 1897 thereby directing all the States and Union Territories to invoke Section 2 of the aforementioned Act.

H. BECAUSE it has been reported in an article published by Scroll.in dated 14.03.2020, that India has tested the lowest number of persons for COVID-19, estimated around 5900 persons (as of 13.03.2020), as compared to other countries. It reported opinion of experts stating the India’s narrow criteria for testing as being the reason for low figures for COVID-19.

I. BECAUSE the same article published by the Scroll.in dated 14.03.2020 reported that since the initial outbreak till 13.03.2020, our country having a population of over 130 crores had tested only 5900 persons with an average of 5 tests per million. Another data on total no. of tests performed by the countries, available on the website ourworldindata.org, as of March 20 showed that India has only conducted 14,514 tests, whereas, USA has conducted 1,03,945 tests in total as of March 19, UK has conducted 64,621 tests in total as of March

19, Italy has conducted 2,06,886 tests as of March 20, South Korea has conducted 3,16,664 tests as of March 20, France has conducted 36,747 tests as of March 15, Spain has conducted 30,000 tests as of March 18 and China has conducted 3,20,000 as of February 24.

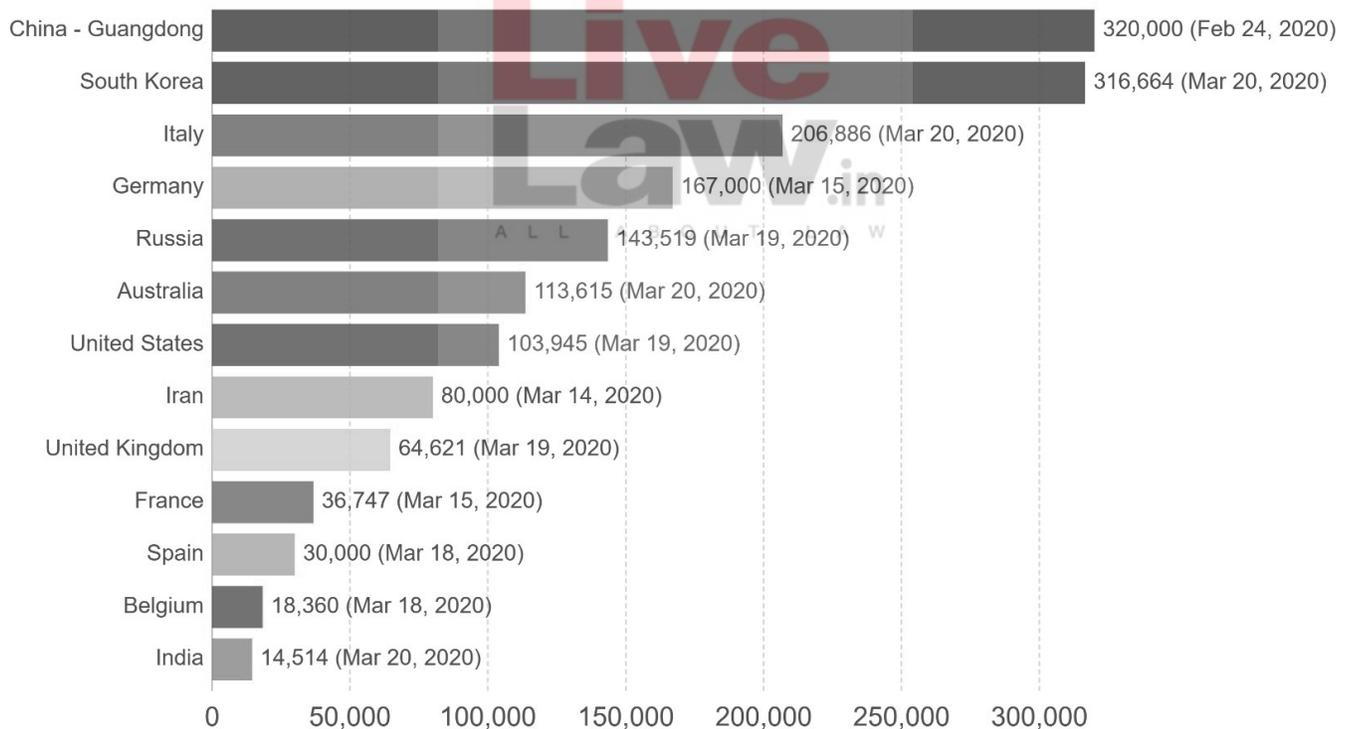
- J. The chart indicating the statistics pertaining to testing of coronavirus of a few countries across the globe is mentioned hereunder:

COVID-19 data as of 20 March: Total tests performed by country

Our World
in Data

Data collected by Our World in Data from official country reports.

For some countries the number of tests corresponds to the number of individuals who have been tested, rather than the number of samples.



Source: Our World in Data

Note: Data for the United States corresponds to estimates from the COVID-Tracking Project.

OurWorldInData.org/coronavirus • CC BY

- K. BECAUSE the revised strategy by India Council of Medical Research for testing the COVID-19 Corona virus patients released on 20.03.2020, is insufficient as it does not mention about testing of any/or all the asymptomatic individuals who might not have come in direct contact with any of the confirmed cases and may not exhibit any signs/symptoms of the disease.
- L. BECAUSE it is reported in an article published in the World Economic Forum dated 23.03.2020, reported that people with mild or no symptoms could be spreading COVID-19. As many as six in 10 people infected with coronavirus may be unaware that they have the disease. there is an undetected pool of people who have mild or no symptoms, according to an article in Nature. That is because an increasing number of infected people have not travelled to epidemic hotspots, or come into contact with people with confirmed cases of COVID-19. Furthermore, it was reported that a new study suggests there were 37,400 people with the virus in Wuhan who authorities did not know about, and who had mild or no symptoms but could still be contagious.

M. BECAUSE it is reported in an article published in Germany's International Broadcaster Deutsche Welle (DW) dated 24.03.2020, reported that upto 30% of the cases of coronavirus are asymptomatic. It is pertinent to note that the Japanese experts have also written a letter to the International Journal of Infectious Diseases stating that "substantial number of cases are underdiagnosed."

N. BECAUSE the list of 166 government laboratories and 70 private laboratories notified by the Respondent for testing of COVID-19 are insufficient given the population of our country. The number of reported persons who have tested positive for COVID-19 are limited to the persons who have been tested in the designated centres. Keeping in mind the vast geographical extent of our country as well as the simplicity of the symptoms of COVID-19 which can easily be mistaken for common cold, it is perhaps infeasible to rely on merely 236 laboratories to gather comprehensive data and identify persons who may have contracted COVID-19. Therefore, there is a requirement for quick action for starting mobile testing facilities for screening and testing of COVID-19.

- O. BECAUSE The current testing capacity of the 166 government and 70 private labs is 18000 tests per day and as per the latest report of ICMR, a total of 1,95,748 samples have been tested, a very minimal number in a country of 1.3 billion people, since the first coronavirus case in the country was reported on Jan. 30. Comparing the numbers, it is evident that India is far behind in testing resulting into very less number of reported cases.
- P. BECAUSE an article dated 30.03.2020, published on Contagion cited a case study of a family in Zhejiang province, China which shows how coronavirus disease 2019 (COVID-19) can spread even before symptoms of the disease emerge. The case study suggested that a large number of patients infected with the virus who show few or no symptoms estimated to be as high as 80%. The study also reported that “These ‘silent patients’, may remain undiagnosed and be able to spread the disease to large number of people.”
- Q. BECAUSE it was reported in an article dated 25.03.2020, published on medRxiv that randomized group testing optimized per country could double the number of tested

individuals from 1.85M to 3.7M using only 671k more tests. This strategy is well-suited to supplement testing for asymptomatic and mild cases who would otherwise go untested, and enable them to adopt behavioral changes to slow the spread of COVID-19.

R. BECAUSE the article proposes the testing of individuals who do not meet current test criteria, as critical care resources are not essential for asymptomatic cases. Individuals with a high case probability can be excluded from groups and tested individually using either existing criteria for screening or newly developed survey instruments. Among individuals presently excluded by testing guidelines, grouped testing is an effective strategy for finding asymptomatic cases that would otherwise be missed.

S. BECAUSE it is reported in an article dated 01.04.2020 published in the Economic Times reported that China has reported 1541 asymptomatic cases even after taking such aggressive measures to control the spread of the virus, raising concern of a second wave of infections.

- T. BECAUSE it has been reported in an article dated 07.04.2020 published on Scroll.in that a teenager and a 60-year-old man with no symptoms test positive in Kerala. They were asymptomatic but were still tested positive with the Corona virus. This indicated that positive asymptomatic cases have started to emerge in India and will likely increase over time.
- U. BECAUSE it was reported in an article dated 07.04.2020, published on AA.com that the experts have urged for more testing as the COVID-19 cases are on arise in India. It was also reported that the Director Washington based Centre for Disease Dynamics, Economy and Policy stated that “India has among the lowest rates of testing in the world but is picking up speed. There is still a long way to go and there is simply no way for any country to win against COVID-19 without extensive testing”.
- V. BECAUSE in the same above- mentioned article dated 07.04.2020 published on AA.com former Health Secretary K Sujata Rao has stated that “India’s strategy is conservative and limited to only those persons with a travel history or connected to such individuals.”

- W. BECAUSE it has been reported in an article published in the Economic Times that ICMR suggests that 1 COVID-19 patient can infect 406 people in just 30 days in absence of self-isolation.
- X. BECAUSE on the basis of reports and articles published, it is clear that a large number of the individuals who may not show any signs/symptoms of the COVID-19 are left undiagnosed and therefore a large chunk of cases remain undetected in the crowd leaving other individuals at a high risk of catching the virus.
- Y. BECAUSE it was reported in a news article dated 25.03.2020 published on NebraskaTV that Governor Pete Ricketts of Nebraska has stated that state is 'pooling' tests now, so combining five tests into one test tube. If it comes back 'negative,' then you know all were negative; if one was 'positive,' then those five will have to be retested. So that expands capacity to 400+ tests a day by public labs.
- Z. BECAUSE another revised strategy by India Council of Medical Research for testing the COVID-19 Corona virus patients released on 09.04.2020, is insufficient as it does not

include any/all asymptomatic individuals for testing who might not have come in direct contact with any of the confirmed cases and may not exhibit any signs/symptoms of the disease.

AA. BECAUSE India's per million testing statistics is one of the worst among all infected nations and the testing among asymptomatic patients is non-existent. Failure on the part of Government of India can be primarily attributed to two factors: - one – large population based; two – lack of testing kits. To tie over the above-mentioned constraints nations like Germany are using statistical methods for drawing the most representative sample viz pool testing strategy.

BB. BECAUSE the COVID-19 has so far spread across 210 countries/areas/territories and thereby termed as a pandemic. Furthermore, the number of persons who have contracted the said infection has increased at an alarming rate and surpassed 1,876,296* cases worldwide, resulting in 116,096 deaths, whereas in India the same numbers are 9240 cases, resulting in 331 deaths within a short period of 4 months.

- CC. BECAUSE the Constitution of India both explicitly and implicitly provides for a right to safety as well as the right to healthy standard of living along with improved public health. Article 47, found in the Directive Principles of the Constitution, creates a “duty of the State to raise the level of nutrition and the standard of living and to improve public health.” And Article 21, which includes a right to life and is woven in the enforceable and justiciable Fundamental Rights of the Constitution. Although the Supreme Court has explicitly stated in various cases that the right to life should be interpreted as a right to “live with human dignity” including the ‘Right to Health’.
- DD. BECAUSE this Hon’ble Court in the matter of State of Punjab & Ors. v. Mohinder Singh Chawla., (1997) 2 SCC 83 held that ‘Right to Health’ is integral to right to life. Government has constitutional obligation to provide the health facilities.
- EE. BECAUSE this Hon’ble Court in the case of *Maneka Gandhi v. Union of India* 1978 SC 597 stated: “Right to life enshrined under Article 21 means something more than animal instinct and includes the right to live with human

dignity, it would include all aspects which would make life meaningful, complete and living.”

FF. BECAUSE the Hon’ble Supreme Court in *Paramanda Katara v. Union of India AIR 1989 SC 2039* held that preservation of life is of utmost importance, because if one’s life is lost, the status quo ante cannot be restored as resurrection is beyond the capacity of man’. Therefore, ‘Right to life’ is a basic and inalienable right of man which shall not be subjected to unwarranted hazards.

GG. BECAUSE the abovementioned judgments substantiate that Article 21 has been infringed as the persons ‘Right to Safety’ and inadvertently, ‘Right to Life’ has been compromised with. The abovementioned judgements place the onus of provision of a safe environment curtailing the outbreak of an epidemic upon the State. In light of the above, it is pertinent to note that Article 21 embarks that right to life does not mean mere existence, but life with dignity.

HH. BECAUSE it is humbly submitted that this Hon’ble court may intervene in this present situation and safeguard the

rights and interests of the citizens and persons *Boni Judicis Est Judicium sine Dilatione Mandare Executioni.*

Therefore, it is the humble submission of the Petitioners that without taking the extensive measure such as using the ‘pooling’ method for testing, conducting tests of all asymptomatic individuals using the sample ‘pooling’ method, and to speed up the process through provision of either mobile testing facilities and/or door to door sample collection, the estimate of the number of persons in our country infected by COVID-19 cannot be determined with accuracy and it would be difficult to contain the transmission of the disease at the community level.

PRAYER

In view of the above-mentioned facts and circumstances of the case, it is, therefore, most humbly prayed that this Hon'ble Court may graciously be pleased to:

- i. Issue a Writ of Mandamus or any other appropriate writ, order or direction thereby directing the Respondents to review the testing criteria to include collecting samples and conducting tests of all asymptomatic persons, in the areas affected with the outbreak;
- ii. Issue a Writ of Mandamus or any other appropriate writ, order or direction thereby directing the Respondents to incorporate the 'Pooling' method and start 'Pooling' the samples of both asymptomatic and symptomatic individuals respectively in order to exponentially increase the population tested and efficiently identify the areas affected and people carrying the virus who may or may not show any symptoms.
- iii. Issue a Writ of Mandamus or any other appropriate writ, order or direction thereby directing the Respondents to speed up the process testing either through provision of Mobile Testing Facilities or through door step sample

collection in order to ensure widespread accessibility of the testing facilities. This will not only increase the number of people tested per million but also ensure the safe collection of samples and proper maintenance of the chain of custody.

- iv. Issue a Writ of Mandamus or any other appropriate writ, order or direction thereby directing the Respondents to start Door to Door sample collection and testing of any person showing any signs/symptoms of COVID-19 Corona virus, so that testing and quarantine can be done at home instead of travelling to hospitals, therefore minimizing the pressure on the already overburdened hospital;
- v. Issue a Writ of Mandamus or any other appropriate writ, order or direction thereby directing the Respondents to prepare and make available the data, online, of the areas covered by door to door or mobile testing and sample collection and total no. of tests conducted, segregated into two categories i.e. symptomatic and asymptomatic, containing necessary details such as areas covered, total no. persons tested, whether the person found positive was symptomatic or asymptomatic or with any travel history, etc
- vi. Pass any order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present

petition.

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

FILED BY:

PETITIONER-IN-PERSON

DRAWN:

FILED ON: 14.04.2020



IN THE HON'BLE SUPREME COURT OF INDIA
EXTRAORDINARY WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. _____ OF 2020

(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:



VERSUS

Union of India, Through The Home Secretary, Cabinet Secretariat,
Rashtrapati Bhawan, New Delhi – 110004

...Respondent No.1

Ministry of Health And Family Welfare, Through Secretary Room
No. 348, A-Wing, Nirman Bhawan, New Delhi – 110011

...Respondent No.2

Indian Council of Medical Research, through Director General,
Department of Health Research, V. Ramalingaswami Bhawan,
Ansari Nagar, New Delhi – 110029

...Respondent No.3

AFFIDAVIT OF PETITIONER NO.1

1. That I am the petitioner no. 1 in the present case and being well conversed with the fact and circumstances of the present case I am competent to swear this affidavit.
2. That I am enrolled as an advocate bearing enrollment no. D/2769/2012, and currently practicing before the Subordinate Courts of the Hon'ble Supreme Court in the National Capital Territory of Delhi.
3. That the accompanying PIL has been prepared by me, the same may be kindly read as part and parcel of this affidavit, the contents thereof are not repeated here for the sake of brevity. The contents of thereto are true and correct.

4. That the contents of this affidavit have been read over to me in my vernacular and I have understood the same and testify to be true and correct.
5. That I have filed the present petition as Public Interest Litigation. I have gone through the public Interest Litigation Rules, notifications of Hon'ble Supreme Court of India and do hereby affirm that the present Public Interest Litigation is in conformity thereof.
6. That the petitioner has no personal interest in the litigation and neither myself nor anybody who the petitioner is interested would in any manner benefit from the relief sought in the present petition save as the member of general public. The petition is not guided by self-gain or gain of any person, institution, body or there is no motive other than of public interest in filing the present petition.
7. That I have done whatsoever enquiry/investigation which was in my power to do to collect all data/material which was relevant for this court to entertain the present petition. I further confirm that I have not concealed in the present petition any data/material/information which may have enabled this court

to form an opinion whether to entertain this petition or not and/or whether to grant any relief or not.

8. That the documents filed along with the petition are true copies of their originals.
9. That I undertake to pay the costs if any imposed by the Court at any stage of the matter.
10. That the contents as stated above are true and correct to my knowledge and belief.



DEPONENT

VERIFICATION:

Verified on this ____ day of April 2020, at Delhi that the contents of the affidavit are true and correct, nothing material has been concealed and no part of it is false.

DEPONENT

IN THE HON'BLE SUPREME COURT OF INDIA
EXTRAORDINARY WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. _____ OF 2020

(PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:



...Petitioner No.2

VERSUS

Union of India, Through The Home Secretary, Cabinet Secretariat,
Rashtrapati Bhawan, New Delhi – 110004

...Respondent No.1

Ministry of Health And Family Welfare, Through Secretary Room
No. 348, A-Wing, Nirman Bhawan, New Delhi – 110011

...Respondent No.2

Indian Council of Medical Research, through Director General,
Department of Health Research, V. Ramalingaswami Bhawan,
Ansari Nagar, New Delhi – 110029

...Respondent No.3

AFFIDAVIT OF PETITIONER NO. 2

1. That I am the petitioner no. 2 in the present case and being well conversed with the fact and circumstances of the present case I am competent to swear this affidavit.
2. That I am enrolled as an advocate bearing enrollment no. D/28/2020, and currently practicing before the Subordinate Courts of the Hon'ble Supreme Court in the National Capital Territory of Delhi.
3. That the accompanying PIL has been prepared by me, the same may be kindly read as part and parcel of this affidavit, the

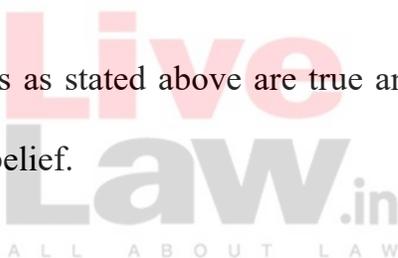
contents thereof are not repeated here for the sake of brevity.

The contents of thereto are true and correct.

4. That the contents of this affidavit have been read over to me in my vernacular and I have understood the same and testify to be true and correct.
5. That I have filed the present petition as Public Interest Litigation. I have gone through the public Interest Litigation Rules, notifications of Hon'ble Supreme Court of India and do hereby affirm that the present Public Interest Litigation is in conformity thereof.
6. That the petitioner has no personal interest in the litigation and neither myself nor anybody who the petitioner is interested would in any manner benefit from the relief sought in the present petition save as the member of general public. The petition is not guided by self-gain or gain of any person, institution, body or there is no motive other than of public interest in filing the present petition.
7. That I have done whatsoever enquiry/investigation which was in my power to do to collect all data/material which was

relevant for this court to entertain the present petition. I further confirm that I have not concealed in the present petition any data/material/information which may have enabled this court to form an opinion whether to entertain this petition or not and/or whether to grant any relief or not.

8. That the documents filed along with the petition are true copies of their originals.
9. That I undertake to pay the costs if any imposed by the Court at any stage of the matter.
10. That the contents as stated above are true and correct to my knowledge and belief.



DEPONENT

VERIFICATION:

Verified on this ____ day of April 2020, at Delhi that the contents of the affidavit are true and correct, nothing material has been concealed and no part of it is false.

DEPONENT

IN THE HON'BLE SUPREME COURT OF INDIA
EXTRAORDINARY WRIT JURISDICTION
CIVIL WRIT PETITION (CIVIL) NO. _____ OF 2020
(PUBLIC INTEREST LITIGATION)
I.A. NO. _____ OF 2020

IN THE MATTER OF:

PRAKHAR DIXIT & ANR. ...PETITIONERS

VERSUS

UNION OF INDIA & ORS ...RESPONDENTS

APPLICATION SEEKING PERMISSION TO APPEAR
AND ARGUE IN PERSON

ALL ABOUT LAW

TO,

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

THE HUMBLE PETITION OF THE PETITIONERS
ABOVE- NAMED

MOST RESPECTFULLY SHOWETH:

1. That the Petitioners above named have preferred the instant Public Interest Litigation vide a civil writ petition seeking an appropriate order or direction from this Hon'ble Court directing the Respondents to start 'pooling' the samples in order to exponentially increase the number of tests conducted in a day; to start conducting tests of asymptomatic persons in the cities and/or districts affected with Coronavirus (COVID-19) as a precautionary measure in order to prevent/stop further spread and causing of deaths due to outbreak of the COVID-19 Corona virus; to start Mobile Testing Facilities in order to ensure widespread accessibility of the testing facilities and medical aid, facilitate door to door testing and/or thermal screening in the affected areas to identify the exact number of persons affected with the outbreak of COVID-19 and provide them with medical help and facilities.
2. That the Petitioners are acting bonafide for the welfare and benefit of the society as a whole in filing the present PIL before this Hon'ble Court. The Petitioners have no vested personal interest in the subject.

3. That the petitioners want to draw the attention of this Hon'ble court towards the situation in India and suggest some alternate methods and/or remedies to tackle the problem.
4. That the petitioners have henceforth preferred this application seeking permission to appear and argue in person.

PRAYER

In view of the facts and circumstances stated herein above it is most respectfully prayed that this hon'ble court may graciously be pleased to:

- i. Accept the application for seeking permission to appear and argue in person;
- ii. Pass any other order/direction as this Hon'ble Court may deem fit and proper in the interest of justice.

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

Filed on: 14.04.2020

Filed By

Place: New Delhi

Petitioner-in-Person

MOST RESPECTFULLY SHOWETH:

1. That the Petitioners above named have preferred the instant Public Interest Litigation vide a civil writ petition seeking an appropriate order or direction from this Hon'ble Court directing the Respondents to start 'pooling' the samples in order to exponentially increase the number of tests conducted in a day; to start conducting tests of asymptomatic persons in the cities and/or districts affected with Coronavirus (COVID-19) as a precautionary measure in order to prevent/stop further spread and causing of deaths due to outbreak of the COVID-19 Corona virus; to start Mobile Testing Facilities in order to ensure widespread accessibility of the testing facilities and medical aid, facilitate door to door testing and/or thermal screening in the affected areas to identify the exact number of persons affected with the outbreak of COVID-19 and provide them with medical help and facilities.

2. That the Petitioners are acting bonafide for the welfare and benefit of the society as a whole in filing the present PIL before this Hon'ble Court. The Petitioners have no vested personal interest in the subject.

3. That the Petitioner have attached 21 annexures along with the PIL in order to substantiate the petition and the grounds stated therein for seeking the relief from this Hon'ble court.
4. That the annexures attached therein are in the form of various articles and reports published in both national and international publications and websites and contains charts, graphs, figures and images and have a definite set of page setting vis-à-vis margin alignment, font style, font size, line spacing etc., among other settings.
5. That it is not possible for the petitioners to alter the page settings and align them according to the prescribed format by the Hon'ble Supreme Court of India and any alternation in the defined page setting would render the annexures illegible and obscure.
6. That in view of the inability to alter the defined page settings, the petitioners may please be exempted from filling the annexures in the prescribed format of the Supreme Court of India.

PRAYER

In view of the facts and circumstances stated herein above it is most respectfully prayed that this hon'ble court may graciously be pleased to:

- i. Pass an order to exempt the petitioners from filing the annexures in the prescribed format of the Supreme Court of India.
- ii. Pass any other order and/or directions as this Hon'ble Court may deem fit and proper.

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



Filed By

Petitioner-in-Person

Place: New Delhi

Filed on: 14.04.2020

MOST RESPECTFULLY SHOWETH:

1. That the Petitioners above named have preferred the instant Public Interest Litigation vide a civil writ petition seeking an appropriate order or direction from this Hon'ble Court directing the Respondents to start 'pooling' the samples in order to exponentially increase the number of tests conducted in a day; to start conducting tests of asymptomatic persons in the cities and/or districts affected with Coronavirus (COVID-19) as a precautionary measure in order to prevent/stop further spread and causing of deaths due to outbreak of the COVID-19 Corona virus; to start Mobile Testing Facilities in order to ensure widespread accessibility of the testing facilities and medical aid, facilitate door to door testing and/or thermal screening in the affected areas to identify the exact number of persons affected with the outbreak of COVID-19 and provide them with medical help and facilities.
2. That due to the ongoing pandemic crisis and in view of the total lockdown in the country, the petitioners are unable to get the affidavit notarized.

3. That the petitioner assures this court that once the situation is under control and the lockdown is lifted, they will file the notarized affidavit before this Hon'ble court.
4. That the Petitioners humbly request this Hon'ble court to grant exemption from filing the notarized affidavit at this point of point.

PRAYER

In view of the facts and circumstances stated herein above it is most respectfully prayed that this hon'ble court may graciously be pleased to:

- i. Pass an order for exemption of petitioners from filing the notarised affidavit along with the petition.
- ii. Pass any other order and/or directions as this Hon'ble Court may deem fit and proper.

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

Place: New Delhi

Filed By

Filed on: 14.04.2020

Petitioner-in-Person

IN THE HON'BLE SUPREME COURT OF INDIA
EXTRAORDINARY WRIT JURISDICTION
WRIT PETITION (CIVIL) NO. _____ OF 2020
(PUBLIC INTEREST LITIGATION)
I.A. NO. _____ OF 2020

IN THE MATTER OF:

PRAKHAR DIXIT & ANR. ...PETITIONERS

VERSUS

UNION OF INDIA & ORS ...RESPONDENTS

APPLICATION FOR CONSIDERING THE PIL FILED BY
THE PETITIONERS AS AN URGENT MATTER TO BE
LISTED

ALL ABOUT LAW

TO,

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

THE HUMBLE PETITION OF THE PETITIONERS
ABOVE- NAMED

MOST RESPECTFULLY SHOWETH:

1. That the present application is being filed in the wake of the outbreak of the pandemic Corona virus disease also termed as COVID-19, wherein an asymptomatic person, a silent carrier of the virus can infect 406 persons in just 30 days, in absence of lockdown, if remains untested. And Government of India isn't testing asymptomatic persons therefore it poses an imminent danger to life of the public at large.
2. That to the surprise and disbelief of petitioners, the respondents have not undertaken any steps for testing and treatment of asymptomatic individuals. Since the disease is highly contagious and can prove to be mortal danger for the target groups and the inactions of the respondents in this sphere, puts a question mark on the COVID-19 strategy adopted by them and have forced the petitioners to knock on the doors of this Hon'ble Court.
3. That it has been 4 months since the outbreak of the disease and in such a short span of time the virus has infected 1,875,590 persons worldwide, resulting into 116,096 deaths. The same numbers for India are 9240 persons infected, resulting in 331

deaths making the current situation precarious.

4. That the above-mentioned number of infected persons and total deaths would sadly increase, both globally and in India till the time the present petition is being heard by this Hon'ble Court.
5. That the petitioners want to draw the attention of this Hon'ble court towards the situation in India and suggest some alternate methods and/or remedies to tackle the problem.
6. That the petitioners have henceforth preferred this application for considering the writ petition filed by the petitioners, as an urgent matter and list it for hearing at the earliest.

PRAYER

In view of the facts and circumstances stated herein above it is most respectfully prayed that this hon'ble court may graciously be pleased to:

- i. Accept the application for considering the writ petition filed by the petitioners, as an urgent matter and list it for hearing at the earliest.

- ii. Pass any other order/direction as this Hon'ble Court may deem fit and proper in the interest of justice.

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

Filed on: 14.04.2020

Filed By

Place: New Delhi

Petitioner-in-Person

