

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2019

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

(Public Interest Litigation)

In the Matter of :



Versus

1. Union of India,
Through its Cabinet Secretary,
South Block, New Delhi- 110001. ...Respondent No. 1

2. Indian Newspapers Society,
Through its President,
Shailesh Gupta,
I.N.S. Buildings, Rafi Marg,
New Delhi- 110001. ...Respondent No. 2

3. News Broadcasters Association, U T L A W
Through its President,
Rajat Sharma,
FF-42, Omaxe Square, Commercial Centre,
Jasola, New Delhi- 110025. ...Respondent No. 3

**WRIT PETITION FOR VIOLATION OF ARTICLES 14, 19 AND
21 OF THE CONSTITUTION OF INDIA UNDER ARTICLE 32
SEEKING DIRECTIONS TO THE RESPONDENTS TO ENSURE
THAT SERVICES OF JOURNALISTS ARE NOT TERMINATED
AND THEIR WAGES ARE NOT REDUCED ARBITRARILY AND
IN VIOLATION OF THE INDUSTRIAL DISPUTES ACT, 1947
AND THE WORKING JOURNALISTS ACT, 1955 UNDER THE
EXCUSE OF THE NATION-WIDE LOCKDOWN.**

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

THE HUMBLE PEITION OF
THE PETITIONER HEREIN

MOST RESPECTFULLY SHOWETH THAT:

1. This public interest litigation is being filed regarding the inhuman and illegal treatment being meted out by employers to their employees and workers in the newspaper and media sector, by issuing termination notices, imposing steep wage cuts unilaterally, sending workers and employees on indefinite unpaid leave, and so on, taking the excuse of the nation-wide "lockdown" imposed in light of the spread of COVID-19, "Coronavirus". Several newspapers, magazines, online media outlets, and other employers in the media sector have reportedly taken steps after the announcement of the nation-wide lockdown in March 2020 to retrench workers and employees, impose wage cuts, etc. in spite of advisories issued by the Ministry of Labour & Employment, Government of India and even appeals by the Prime Minister of India to not terminate the services or reduce the wages of their employees.

- 1A. The Petitioners have not approached any other authority for the same reliefs.

2. The facts constituting the cause of action are that several newspapers, magazines, online media outlets, and other employers in the media sector have reportedly taken steps after the announcement of the nation-wide lockdown in March 2020 to retrench workers and employees, impose wage cuts, etc. in spite of advisories issued by the Ministry of Labour & Employment, Government of India and even appeals by the Prime Minister of India to not terminate the services or reduce the wages of their employees. The nature of injury caused to the public is that this is an affront to the rights of journalists and also impedes their ability to perform their duties and provide independent journalism as a pillar of democracy. The petitioners are filing the present PIL before this Hon'ble Court *bona fide* for the welfare and benefit of society as a whole and don't have any personal interest in the subject-matter herein. Further, the Petitioners are not involved in any pending civil, criminal or revenue litigation, which has or could have a legal nexus with this petition.

Array of Parties

3. Petitioner No. 1 is the National Alliance of Journalists, represented by its President, Shailendra Kumar Pandey. The National Alliance of Journalists (NAJ) is an alliance of Journalists' Unions from several states. It has a national membership of over 6000 journalists from the print, electronic and digital media. It is a registered body. It

takes up matters pertaining to wages, press freedom, press ethics, attacks on journalists, cases of trolling of journalists, defamation against journalists, laws impacting the profession and related matters. It advocates for legal changes that will benefit the profession and networks with various professional bodies to accomplish its aims. It also undertakes advocacy with Parliamentary bodies and governments at the Centre and States. S.K. Pande, who heads the Alliance, is a veteran journalist who has been associated with the profession for more than fifty years and has worked with, among others, The Patriot daily, the Press Institute of India and the Frontline magazine. His personal details are as follows:



4. Petitioner No. 2 is the Delhi Union of Journalists, represented by its General Secretary, Sujata Madhok. The Delhi Union of Journalists is the leading body of journalists in the capital city. It is a registered Trade Union that will complete its 70th year in 2020. It has a fully paid live membership of over 500 journalists from both the print, electronic and digital media. It takes up various professional and trade union issues on behalf of the journalists' community, such as attacks on journalists, harassments of journalists online, problems

of non-payment of wages, closures and lockdowns of establishments etc. It carries out advocacy with the Union Government as well as the Government of the National Capital Territory of Delhi on many professional issues including laws and rules related to the profession, the institution of wage boards etc. Sujata Madhok is the General Secretary of the Delhi Union of Journalists and is responsible for the day to day functioning of the Union, for taking up media problems including the problems of individual journalists, for issuing press releases as well as advocacy with the government and handling relations with other professional bodies. Her personal details are as follows:



5. Petitioner No. 3 is the Brihanmumbai Union of Journalists (BUJ), represented by its General Secretary, Indrakumar Bansilal Jain. BUJ is the leading body of journalists in Mumbai. It is a registered trade union and was registered in 1952. It has a membership of 250 journalists from print and electronic media. It takes up various professional and trade union issues on behalf of the journalists' community, such as attacks on journalists, harassments of journalists online, problems of non-payment of wages, closures and lockdowns of establishments etc. BUJ is represented by its General

Secretary, Indrakumar Bansilal Jain. His personal details are as follows:

6. Respondent No. 1 is the Union of India, represented by the Cabinet Secretary.
7. Respondent No. 2 is the Indian Newspaper Society, represented by its President, Shailesh Gupta. Respondent No. 2 is the central body for newspaper establishments helping its members by placing their views as an industry before the government on the recommendations of the Wage Boards for working journalists and non-journalists employees.
8. Respondent No. 3 is the News Broadcasters Association, represented by its President, Rajat Sharma. Respondent No. 3 represents the private television news and current affairs broadcasters. According to its website, it is the collective voice of the news and current affairs broadcasters in India. It has presently 27 leading news and current affairs broadcasters (comprising 77 news and current affairs channels) as its members.

Prime Minister's Appeals

9. The Prime Minister of India appealed to all establishments and employers in the country not to terminate services or cut wages of their employees in his address to the nation on 14.4.2020. The relevant extract of the speech is as follows:

“Friends, if we continue to be patient and follow rules, we will be able to defeat even a pandemic like Corona. With this faith and trust, I seek your support for 7 things in the end.



...
Sixth thing –

Be compassionate towards the people who work with you in your business or industry. Do not deprive them of their livelihood.”

True copy of the transcript of the speech made by Prime Minister of India on 14.4.2020 is attached herewith as **Annexure P-11 at page no. 65 to 73.**

10. The Prime Minister of India had made a similar appeal in his address to the nation on 23.3.2020. The relevant extract of the speech is as follows:

“Think about the doctors, nurses, paramedical staff, pathologists who are working day and night in hospitals to save each and every life. Think about hospital administration staff, ambulance drivers, ward boys, sanitation workers who are working to serve others in these difficult conditions. Pray for those people who are working to sanitize your society, your locality, your streets, and public places to ensure that this virus is eradicated completely.

Think about the media persons as well who are working round the clock and risking infection while reporting from the streets and hospitals.”

True copy of the transcript of the speech made by Prime Minister of India on 23.3.2020 is attached herewith as **Annexure P-4 at page no. 33 to 42.**

Advisories issued by Government of India

11. The Ministry of Labour and Employment, Government of India issued the following advisories on 20.3.2020 to the Chief Secretary of all the States/ Union Territories and also to the All Employers' Association:

“The World is facing a catastrophic situation due to the outbreak of COVID-19 and in order to combat this challenge, coordinate joint efforts of all sections of the society are required. In view of the above, there may be incidence that employees’/workers’ services are dispensed with on this pretext or the employees/workers are faced to go on leave without wage/salaries.

In the backdrop of such challenging situation, all the employers of public/private establishments are advised to extend their coordination by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. If any worker takes leave, he should be deemed to be on duty without any consequential deduction in wages for this period. Further, if the place of employment is to be made non-operational due to COVID-19, the employees of such unit will be deemed to be on duty.

The termination of employee from the job or reduction in wages in this scenario would further deepen the crises and will not only weaken the financial condition of the employee but also hamper their morale to combat their fight with this epidemic.”

True copy of the Advisories issued by the Ministry of Labour & Employment, Government of India are attached herewith as **Annexure P-2 at page no. 30 to 31.**

FACTS

12. In the last few months, the world has witnessed the spread of a communicable respiratory disease called the Novel Corona Virus (COVID-19), caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2). The outbreak was first identified in Wuhan, Hubei, China in December 2019. On 11th March 2020, the World Health Organization declared COVID-19 as a pandemic after noting that COVID-19 has increased 13-fold in countries other than China. Some State Governments has also declared COVID-19 an epidemic, in order to invoke the emergency provisions of the Epidemic Diseases Act, 1897. Currently, over 110 countries have detected persons suffering from COVID-19 in their territories.
13. The Government of India and the respective State Government have also issued several advisories to the citizens, regarding the prevention of the further spread of the COVID-19 virus. One of the suggestions made by the Government of India is to maintain social distancing, which is considered to be the most effective way of stopping the contagion of COVID-19 virus.

14. On 23.3.2020, the Government of India announced a nationwide "lockdown" for 21 days, up till 15.4.2020. This meant closing down of public transport, offices, schools and colleges, and all other public spaces, leaving out only essential services to be continue during this 21-day long lockdown. This "lockdown" was extended on 14.4.2020 up till 3.5.2020.

Illegal retrenchment, wage cuts, forced indefinite unpaid leave by employers in the media sector

15. After the announcement of lockdown on 23.3.2020, the Ministry of Home Affairs, Government of India issued Order No. 40-3/2020 dated 24.3.2020, containing the "Guidelines on the measures to be taken by Ministries/Departments of Government of India, State/Union Territory Governments and State/Union Territory Authorities for containment of COVID-19 Epidemic in the Country", whereby "print and electronic media" were specifically and expressly exempted from closing down of private establishments, that is to say private establishments in the print and electronic media sector were allow to continue functions, notwithstanding the lockdown.

True copy of Order No. 40-3/2020 dated 24.3.2020, containing the "Guidelines on the measures to be taken by Ministries/Departments of Government of India, State/Union Territory Governments and State/Union Territory Authorities for containment of COVID-19

Epidemic in the Country” is attached herewith as **Annexure P-5** at page no. 43 to 48.

16. However, despite the fact that the Government of India has specifically permitted print and electronic media establishments to continue functioning, the appeals made by the Prime Minister of India and advisories issued by the Government of India to not terminate services or reduce wages of employees, several employers/ establishments in the newspaper/ media sector have taken unilateral knee-jerk decisions to terminate services, reduce wages and also send employees on forced indefinite unpaid leave.
17. Following is a list of instances of such actions by employers/ establishments in the newspaper/ media sector since 15.3.2020:
- a. Indian Express has asked staff to take salary cuts
 - b. News Nation terminated 16 English digital employees
 - c. Times of India sacked the entire Sunday magazine team
 - d. Around 45 members of the 200-strong Quint team has been asked to go on leave without pay and the non-compete clause in their contracts were waived
 - e. Hamara Mahanagar, Hindi newspaper from Mumbai, shut down on March 18 citing 'poor business viability'.
 - f. Bloomberg Quint emailed staff to say there will be a steep salary cut for April. It 'expects to resume the

normal salary cycle from May' but makes no mention of making up the lost salary for April.

- g. Sakal Times, the Marathi newspaper, began its 'downsizing' a week before the lockdown. At least 15 employees, five each in design and sports, four in the news bureau, and one in features, were told to submit their resignations and leave by March 31.

18. In the backdrop of the lockdown, the media industry has effected job losses and wages cuts with impunity. Media houses have summarily shut down, in violation of the Industrial Disputes Act, 1947. Despite the advisories mentioned above and legal provisions that disallow retrenchments, terminations or even suspension and closure of publications without due process, media companies have gone ahead with these measures, unmindful of the fact that, in a lockdown of such an incredible magnitude people can barely move out, leave alone go job-hunting.

19. According to a report titled "News Nation lays off its entire English digital team of 15" published by online news portal Newslaundry on 13.4.2020, News Nation Network abruptly laid off its entire English digital team of 15 employees without giving them notice of termination or being allowed to serve their notice period. This was in violation of their terms of employment and appointment letters.

True copy of the report titled "News Nation lays off its entire English digital team of 15" published by online news portal NewsLaundry on 13.4.2020, is attached herewith as **Annexure P-8 at page no. 54 to 57.**

20. According to another report published by online news portal NewsLaundry on 13.4.2020, titled "The Quint sends 45 staffers on indefinite leave without pay, ToI lays off 3 from Sunday magazine", Digital news website "*The Quint*" has asked about 45 employees to go on an indefinite leave without pay. The affected employees will be paid half their salaries for the month of April. The unpaid leave will start from April 15. Similarly, "*Times Life*", a Sunday supplement produced by the *Times of India*, has asked at least three of its employees to leave.

True copy of the report titled "The Quint sends 45 staffers on indefinite leave without pay, ToI lays off 3 from Sunday magazine", published by online news portal NewsLaundry on 13.4.2020, is attached herewith as **Annexure P-9 at page no. 58 to 60.**

21. Similarly, as per a report titled "Pay cuts at Indian Express, chairman and chief editor take 100 percent cut" published by online news portal NewsLaundry on 1.4.2020, *The Indian Express* has unilaterally made a decision and asked its employees to take a "temporary salary cut" after the nationwide lockdown.

True copy of the report titled "Pay cuts at Indian Express, chairman and chief editor take 100 percent cut", published by online news

portal Newslaundry on 1.4.2020, is attached herewith as **Annexure P-7 at page no. 52 to 53.**

22. Further, as per a report titled “‘The future is very bleak’: Sakal Times staffers say they have been sacked in violation of Maharashtra order”, published by online news portal Newslaundry on 27.3.2020, Sakal Media Group, which is one of Maharashtra’s leading media groups, asked 15 employees to submit their resignations and leave by March 31. All of them worked in the editorial division of *Sakal Times* – five each in design and sports, four in the news bureau, and one in features. This was in violation of the advisory issued by the Government of Maharashtra on 20.3.2020

True copy of the report titled “‘The future is very bleak’: Sakal Times staffers say they have been sacked in violation of Maharashtra order”, published by online news portal Newslaundry on 27.3.2020, is attached herewith as **Annexure P-6 at page no. 49 to 51.**

True copy of the advisory issued by the Government of Maharashtra on 20.3.2020, is attached herewith as **Annexure P-3 at page no. 32.**

23. On 18.3.2020, Mahanagar Media Network Pvt. Ltd. closed down its printing and publication business of ‘Hamara Mahanagar’ Hindi Daily, with immediate effect, i.e. from 18.3.2020, and terminate the services of all employees from the same date. This

was in violation of Section 250 of the Industrial Disputes Act, 1947.

True copy of the letter dated 18.3.2020 addressed by the Director of Mahanagar Media Network Pvt. Ltd. to all the employees is attached herewith as **Annexure P-1 at page no. 29.**

24. The difficulties being faced by journalists and other persons working in the media sector have also been recorded in a report titled "Bloodbath amid lockdown: Full list of media houses that have cut salaries or let people go" published by the Free Press Journal on 14.4.2020.

True copy of the report titled "Bloodbath amid lockdown: Full list of media houses that have cut salaries or let people go" published by the Free Press Journal on 14.4.2020, is attached herewith as **Annexure P-10 at page no. 61 to 64.**

**Retrenchment in violation of Industrial Disputes Act, 1947
and Working Journalists Act, 1955**

25. The retrenchment of employees/workers by establishments and employers in the media sector in the fashion described above is in violation of Sections 25N and 250 of the Industrial Disputes Act, 1947 and Section 16A of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955.

26. Section 25N of the Industrial Disputes Act, 1947 reads as follows:

“25N. Conditions precedent to retrenchment of workmen.-

(1) No workman employed in any industrial establishment to which this Chapter applies, who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until,-

(a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of notice; and

(b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority) has been obtained on an application made in this behalf.

(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended retrenchment and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where an application for permission under sub-section (1) has been made, the appropriate Government or the specified authority, after making such enquiry as it thinks fit

and after giving a reasonable opportunity of being heard to the employer, the workmen concerned and the person interested in such retrenchment, may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the workmen and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(4) ...  ALL ABOUT LAW

(5) ...

(6) ...

(7) Where no application for permission under sub-section (1) is made, or where the permission for any retrenchment has been refused, such retrenchment shall be deemed to be illegal from the date on which the notice of retrenchment was given to the workman and the workman shall be entitled to all the benefits under any law for the time being in force as if no notice had been given to him.

(8) ...”

27. Section 250 of the Industrial Disputes Act, 1947 reads as follows:

“250. Procedure for closing down an undertaking.-

(1) An employer who intends to close down an undertaking of an industrial establishment to which this Chapter applies shall, in the prescribed manner, apply, for prior permission at least ninety days before the date on which the intended closure is to become effective, to the appropriate Government, stating clearly the reasons for the intended closure of the undertaking and a copy of such application shall also be served simultaneously on the representatives of the workmen in the prescribed manner: Provided that nothing in this sub-section shall apply to an undertaking set up for the construction of buildings, bridges, roads, canals, dams or for other construction work.

(2) Where an application for permission has been made under sub-section (1), the appropriate Government, after making such enquiry as it thinks fit and after giving a reasonable opportunity of being heard to the employer, the workmen and the persons interested in such closure may, having regard to the genuineness and adequacy of the reasons stated by the employer, the interests of the general public and all other relevant factors, by order and for reasons to be recorded in writing, grant or refuse to grant such permission and a copy of such order shall be communicated to the employer and the workmen.

(3) ...

(4) ...

(5) ...

(6) Where no application for permission under sub-section (1) is made within the period specified therein, or where the permission for closure has been refused, the closure of the undertaking shall be deemed to be illegal from the date of closure and the workmen shall be entitled to all the benefits under any law for the time being in force as if the undertaking had not been closed down.

(7) ...

(8) ...”

Live
Law.in

28. Section 16A of the Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955 reads as follows:

“16A- Employer not to dismiss, discharge, etc., newspaper employees.—No employer in relation to a newspaper establishment shall, by reason of his liability for payment of wages to newspaper employees at the rates specified in an order of the Central Government under Section 12, or under Section 12 read with Section 13AA or Section 13DD, dismiss, discharge or retrench any newspaper employee.”

29. Therefore, what media establishments/ employers are prohibited from doing by law, they are trying to achieve by

subterfuge taking the excuse of the lockdown due to spread of coronavirus.

GROUND

30. Hence the Petitioner moves before this Hon'ble Court by way of this petition on, inter alia, the following grounds:

- A. BECAUSE the journalists and non-journalists employees working in the print, electronic and digital media sector are carrying out essential services as per the order of the Ministry of Home Affairs, Government of India, dated 24.3.2020.
- B. BECAUSE media houses have been exempted from the lockdown and have been permitted to continue operations, and the journalists continue to carry out their duties even during the ongoing nation-wide "lockdown".
- C. BECAUSE the Prime Minister of India has made repeated appeals to all public and private establishments and employers not to terminate services of their employees or reduce their wages during the lockdown.

- D. BECAUSE the Ministry of Labour and Employment, Government of India, have issued multiple advisories to all public and private establishments and employers not to terminate services of their employees or reduce their wages during the lockdown.
- E. BECAUSE the abrupt and sudden closure of operations by media houses is in violation of Section 25O of the Industrial Disputes Act, 1947.
- F. BECAUSE the retrenchment of workers by media houses is in violation of Section 25N of the Industrial Disputes Act, 1947.
- G. BECAUSE the termination of services and forced indefinite leave without pay being forced upon journalists in the manner described in this petition are in violation of Section 16A of the Working Journalists Act, 1955.
- H. BECAUSE the termination of services, reduction in wages and forced unpaid leave is in violation of the terms of service and appointment letters/contracts of the journalists.
- I. BECAUSE the arbitrary actions on part of the private media houses places journalists in a precarious situation, especially in light of the ongoing lockdown

which has placed them under physical, financial and personal distress.

J. Because the termination of services, reduction in wages and forced unpaid leave will have a pernicious effect on the media sector and will severely hamper the media's ability to perform its functions in the democratic set up.

31. That the Petitioners have not filed any similar petition seeking similar reliefs before any High Court or this Hon'ble Court.



32. In view of the facts and circumstances of this Petition, the Petitioners pray, therefore, that this Hon'ble Court may be pleased to:

(a) Issue an appropriate writ, direction or order directing all persons publishing newspapers or engaged with media work including digital media and employing journalists and non-journalists for this purpose to treat all termination of service notices issued, resignation from services received from employees pursuant to a request from the employers whether oral or in writing, all wage reductions, all directions to go on leave without pay, taking place after the announcement of the

lockdown as suspended with immediate effect until further orders.

(b) For interim relief in terms of prayer clause (a).

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND SHALL EVER BE GRATEFUL

Drawn on: 15.4.2020

Drawn by: Siddharth Seem

Filed on: 16.4.2020



Filed by:

SATYA MITRA

Advocate for the Petitioners

IN THE 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:

National Alliance of Journalists & Ors. ... Petitioners

Versus

Union of India & Ors.

... Respondents



AFFIDAVIT

1. That I am the General Secretary of the Petitioner No.2 Union in the above Writ Petition and as such I am well conversant with the facts and circumstances of this case and hence authorized to swear the present affidavit on behalf of Petitioners No. 1-3.
2. That I have read and understood the contents of the accompanying Synopsis & List of Dates from Page no. B to S, Writ Petition from page no. 1 to 25 and paragraph 1 to 32, and the accompanying Applications and that the same is being filed under my instructions and the contents thereof are true to the best of my belief and nothing material has been concealed.

3. That the Petitioners have not filed any other similar petition/application before this Hon'ble court seeking similar prayers.
4. That the petitioners are filing the present PIL before this Hon'ble Court *bona fide* for the welfare and benefit of society as a whole and don't have any personal interest in the subject-matter herein.
5. That the Petitioners are not involved in any pending civil, criminal or revenue litigation, which has or could have a legal nexus with this petition.
6. That the annexures annexed with the petition/application are true and correct copies of the respective originals.



DEPONENT

VERIFICATION

Verified at _____ on this 16th day of the Month of April, 2020
that the contents of this affidavit are true and correct to the best of my
knowledge and belief and nothing material has been concealed
therefrom.

DEPONENT

Appendix

Working Journalists and Other Newspaper Employees (Conditions of Service) and Miscellaneous Provisions Act, 1955

Section 16A- Employer not to dismiss, discharge, etc., newspaper employees.— No employer in relation to a newspaper establishment shall, by reason of his liability for payment of wages to newspaper employees at the rates specified in an order of the Central Government under Section 12, or under Section 12 read with Section 13AA or Section 13DD, dismiss, discharge or retrench any newspaper employee.