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PROFORMA FOR FIRST LISTING

SECTION X

The case pertains to (Please tick/check the correct box):

<input checked="" type="radio"/>	Central Act: (Title):	The Disaster Management Act 2005
<input checked="" type="radio"/>	Section:	Sections 10(2)(1)
<input checked="" type="radio"/>	Central Rule: (Title)	N.A.
<input checked="" type="radio"/>	Rule No(s):	N.A.
<input checked="" type="radio"/>	State Act: (Title)	N.A.
<input checked="" type="radio"/>	Section:	N.A.
<input checked="" type="radio"/>	State Rule: (Title)	N.A.
<input checked="" type="radio"/>	Rule No(s):	N.A.
<input checked="" type="radio"/>	Impugned Interim Order: (Date):	N.A.
<input checked="" type="radio"/>	Impugned final Order/Decree: (Date):	N.A.
<input checked="" type="radio"/>	High Court: (Name):	N.A.
<input checked="" type="radio"/>	Name of Judge(s):	N.A.
<input checked="" type="radio"/>	Tribunal/Authority: (Name)	N.A.

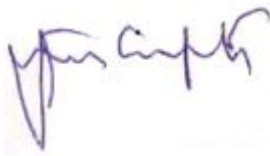
1.	Nature of matter:	<input type="checkbox"/> Civil	<input checked="" type="checkbox"/> Criminal
2. (a)	Petitioner / Appellant No. 1:	Instruments and Chemicals Pvt. Ltd. & Ors.	
(b)	e-mail ID:	N.A.	
(c)	Mobile Phone no.:	N.A.	

3. (a)	Respondent No. 1:	Union of India & Ors.	
(b)	e-mail ID:	N.A.	
(c)	Mobile Phone no.:	N.A.	
4. (a)	Main category classification:	01	
(b)	Sub classification:	0104	
5.	Not to be listed before:	N.A.	
6.	(a) Similar disposed of matter with citation, if any & case details:	No other similar disposed matter to the best of knowledge of Petitioner	
	(b) Similar pending with case details:	Case filed Diary No.- 10983 - 2020 titled "Ficus Pax Pvt. Ltd. vs. Union of India. Last Listed on 27.04.2020	
7.	Criminal Matters: N.A.		
(a)	Whether accused/convict has surrendered: YY	<input checked="" type="radio"/> Yes	<input checked="" type="radio"/> No
(b)	FIR No.: N.A.	Date : N.A.	
(c)	Police Station:	N.A.	
(d)	Sentence Awarded:	N.A.	
(e)	Sentence Undergone:	N.A.	
8.	<b>Land Acquisition Matters: N/A</b>		
(a)	Date of Section 4 notification:	N.A.	
(b)	Date of Section 6 notification:	N.A.	
(c)	Date of Section 17 notification:	N.A.	

9.	<b>Tax Matters:</b> State the tax effect:	N.A.
10.	<b>Special Category</b> (first petitioner/appellant only): N/A	
	<input type="checkbox"/> Senior citizen > 65 years <input type="checkbox"/> SC/ST <input type="checkbox"/> Woman/child <input type="checkbox"/> Disabled <input type="checkbox"/> Legal Aid Case <input type="checkbox"/> In custody	
11.	Vehicle Number (in case of Motor Accident Claim matters):	N.A.

Date: 27.04.2020

AOR for petitioner(s) / appellant(s)



(JEETENDER GUPTA)

(Code No.2713)

(guptajeetender@gmail.com)

Ph. 9810050748

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION (C) NO.                      OF 2020  
(Under order XXXVIII of the Supreme Court Rules, 2013)

**IN THE MATTER OF:**

Instruments and Chemicals Pvt. Ltd. & Ors. ...PETITIONER

VERSUS

Union of India & Ors.    ...RESPONDENTS

WITH

**I.A. No. \_\_\_\_\_ of 2020**  
(An Application for interim directions)

**PAPER BOOK**  
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ADVOCATE FOR THE PETITIONER: JEETENDER GUPTA



I N D E X

RECORD OF PROCEEDINGS

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**SYNOPSIS AND LIST OF DATES**

That the present writ petition under Article 32 of the Constitution of India is being filed jointly by the Petitioners, thereby, challenging the constitutional validity of the D.O. No.M-11011/08/2020-Media dated 20.03.2020 ("Impugned Advisory") issued by Secretary (Labour & Employment) and Order No.40-3/2020-DM-I(A) dated 29.03.2020 ("Impugned Order") passed by Home Secretary, Ministry of Home Affairs, Government of India under Section 10(2)(l) of the Disaster Management Act 2005 ("DMA Act"), together referred to as ("Impugned Notifications"), as being violative of Articles 14 and 19(1)(g) of the Constitution of India.

That the Petitioner is further praying for Issuance of a writ, order or direction in the nature of a mandamus or any other appropriate writ, order or directions, thereby directing the Respondents to subsidize the wages of workers to the tune of 70% for lockdown period by utilizing the funds collected by the Employees' State Insurance Corporation (ESIC) or the PM Cares Fund or through any other Government Fund / Scheme.

As per the Impugned Advisory dated 20.03.2020 issued by Secretary (Labour & Employment) to all States / UTs, requesting them to issue necessary Advisory to Employers / Owners of all establishments in the state, to extend their cooperation by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. As per same, 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 on duty.

The Hon'ble Prime Minister addressed the nation and announced a nationwide lockdown for 21 days i.e. from 25.03.2020 till 14.04.2020 in the wake of Covid-19 pandemic. The national lockdown now stands extended till 03.05.2020.

Similarly, Pursuant to the clause (iii) of the impugned order dated 29.03.2020 passed by Home Secretary, Ministry of Home Affairs, “all the employers, be it in the industry or in the shops and commercial establishments shall make payment of wages of their workers at their work places, on the due date, without any deduction, for the period their establishments are under closure during the lockdown.” The Impugned Order further directs the States / UTs to take necessary action for the violation of the Said Order.

The Chief Secretary, Haryana Government vide its letter dated 29.03.2020 has further circulated the impugned order dated 29.03.2020 to all administrative secretaries, nodal officers, Divisional Commissioners and Deputy Commissioners in the state for necessary action.

The Petitioners are jointly filing the present petition with a common interest of being aggrieved by the Impugned Notifications. The Petitioners are all companies, incorporated under the Companies Act, 1956.

The Petitioners are MSMEs (Micro, Small and Medium Enterprises) registered under the Micro Small and Medium Enterprises Development Act 2006 (“MSMED Act 2006”) as manufacturing / service industry. The petitioners have at least one of their factories / work place in the state of Haryana.

The Petitioners have already paid the wages to all workers including for the month of March 2020. On one hand, the business of the Petitioners has come to a stand still due to lock down and on the other hand the Petitioners are being compelled under the Impugned Notifications to pay for the wages to workers for entire lockdown period. The Petitioners are being further restrained from reducing their workforce especially the casual or contract or migrant workers. The Petitioners are under extreme financial & mental stress because of the Impugned Notifications.

## D

The following questions of law arise for the kind consideration of this Hon'ble Court:

I. WHETHER the Impugned Notifications are arbitrary, illegal, irrational, unreasonable and contrary to the provisions of law including Article 14 and Article 19(1)(g) of the Constitution of India. By way of the the impugned notifications, an otherwise stable and solvent industrial establishment, especially an MSME establishment, can be forced into insolvency and loss of control of business.

II. WHETHER the impugned notifications tantamount to being an unreasonable & arbitrary interference with the rights of the Petitioners under Article 19(1)(g) of the Constitution and is *ipso facto* reason enough to strike down the impugned notifications?

III. WHETHER the impugned notifications are in violation of Article 14 and Article 39 of the Constitution of India, being contrary to principle of “Equal Work Equal Pay” and also “No Work No Pay” for it does not differentiate between the workers who are working during the lock down period in establishments which have been permitted to operate during the lockdown period?

IV. WHETHER the Home Secretary, Ministry of Home Affairs, Government of India is empowered to invoke Section 10(2)(l) or any other provision of the Disaster Management Act 2005 (“DMA 2005”) to impose financial obligations upon private sector for payment of wages, contrary to the obligation of state under Article 43 of Constitution of India?

V. WHETHER the impugned notifications can have the effect of completely negating the statutory provisions under the Industrial Disputes Act 1947(“I.D. Act”), more specifically Section 2(kkk), Section 2(oo), Section 2(rr), Sections 25C to 25N?

## **E**

VI. WHETHER the Respondents should utilize the ESI funds available with the Government of India in terms of Section 46 of the Employees' State Insurance Act, 1948 to make periodical payments to workers undergoing preventive treatment as a part of the lockdown period against COVID-19, instead of compelling the employer to pay for the wages for lockdown period?

VII. WHETHER the Payment of salary/ wages to employees and workers during the lockdown period is a moral obligation of employer as observed by the Ministry of Corporate Affairs vide its general circular 15/2020 dated 10.04.2020 or an enforceable statutory obligation?

VIII. WHETHER the Respondents can arbitrarily differentiate against the construction workers & workers in other Industry for utilization of welfare funds to compensate the workers for the lockdown period?

IX. WHETHER the Respondents can be permitted to cause financial hardship to industrial establishments such as petitioners by compelling them to pay "Wages" without getting any work done from the employees during the lockdown period?

X. WHETHER the amounts paid by the employer to its workers be treated as "Wages" in terms of definition of Wages under the Industrial Dispute Act or should it be treated as advance payment?

XI. WHETHER the Respondents can legally restrain the Petitioner from terminating their contracts for contractual workers in terms of the agreed upon terms and conditions?

## **F**

The Petitioner is seeking to declare the D.O. No.M-11011/08/2020-Media dated 20.03.2020 issued by Secretary (Labour & Employment) and Clause (iii) of Order No.40-3/2020-DM-I(A) dated 29.03.2020 passed by Home Secretary, Ministry of Home Affairs, Government of India, as being violative of Articles 14 and 19(1)(g) of the Constitution of India as unconstitutional and being violative of Article 14 and Article 19(1)(g) of the Constitution :

- A. The Impugned Notifications are arbitrary, illegal, irrational, unreasonable and contrary to the provisions of law including Article 14 and Article 19(1)(g) of the Constitution of India and is ipso facto reason enough to strike down the impugned notifications. By way of the the impugned notifications, an otherwise stable and solvent MSME industry could be forced into insolvency. Consequently, the very notifications issued for the benefit of the workers would in fact adversely impact those workers in the long term, who would be rendered unemployed.
- B. The Central Government in terms of Section 46 of DMA 2005 has the power to constitute National Disaster Response Fund towards meeting the expenses for emergency response, relief and rehabilitation. Similarly, Section 47 of DMA 2005, empowers the Central Government has the power to constitute National Disaster Mitigation Fund for the purpose of mitigation. Even though the Central government has the power to allocate fund for emergency response, relief, rehabilitation, mitigation of disasters under DMA 2005 it cannot enforce financial obligations upon the private establishments.

- C. The Respondent No.1 under the Disaster Management Act do not have any legislative powers to pass the Impugned Order, thereby, to direct private establishments with respect to matters of employment, wages, layoff, retrenchment etc. The Respondent No.1 cannot invoke Section 10(2)(l) or any other provision of the Disaster Management Act 2005 (“DMA 2005”) to impose financial obligations on private sector such as payment of wages, contrary to the obligation of state under Article 43 of Constitution of India.
- D. That in terms of Section 65 of DMA 2005 the National Executive Committee is empowered to requisition of resources, provisions, vehicles, etc., for rescue operations and that too by Payment of Compensation in terms of Section 66 of DMA 2005. However, the ultimate onus for any compensation towards workers shall ultimately be of the Government and the said liability cannot be shifted upon the employers in private establishments.
- E. That in its present form, any non compliance of Impugned Provisions could even lead to coercive action against the Petitioners / Employers under Section 57 of the Disaster Management Act and / or Section 188 of the Indian Penal Code, being punishable with fine and / or imprisonment which may extend even up to two years.
- F. Tthe impugned notifications are in violation of Article 14 and Article 39 of the Constitution of India, being contrary to principle of “Equal Work Equal Pay” and also “No Work No Pay” for it does not differentiate between the workers who are working during the lock down period in establishments such as the Petitioner who have been permitted to operate during the lockdown period.

## H

- G. The Impugned Notifications are contrary to Article 300A of the Constitution of India as per which No person shall be deprived of his property save by the authority of law. However, by way of enforcement of Impugned Notifications, the Respondents are compelling Petitioner to meet out an expense which is otherwise the obligation of the Respondents and not that of the Petitioners.
- H. The amounts paid by the employer to its workers cannot be treated as “Wages” in terms of definition of Wages under the Section 2(rr) of Industrial Dispute Act 1947. At the most it should it be treated as advance payment, being adjustable in future wages or compensation for layoff / retrenchment under I.D. Act.
- I. The Petitioners should be entitled to laying off & retrench workers in term of Section 2(kkk), Section 2(oo) and Sections 25C to 25N of I.D. Act. As per Section 25M of I.D. Act there is no prohibition of layoff or a permission from the government, if such layoff is due to a natural calamity. Further, the Respondents cannot legally override the contracts between Employers and Contractors for contractual work.
- J. The Respondents cannot arbitrarily differentiate against the construction workers & workers in other Industry for utilization of welfare funds to compensate the workers for the lockdown period. The Union Minister of State, Labour and Employment issued an advisory dated 24.03.2020 to all State Governments/UTs under Section 60 of the Building and Other Construction Workers Act 1996 (“BOCW Act”) to transfer funds in the account of construction workers through DBT mode from the Cess fund collected by the Labour Welfare Boards.



- K. The Respondents should not compel the employers to pay for the wages for lockdown period but instead should utilize the funds collected by the Employees' State Insurance Corporation (ESIC) in terms of Section 46 of the Employees' State Insurance Act, 1948 to make periodical payments to workers undergoing preventive treatment as a part of the lockdown period against COVID-19. It is well established, that staying in self quarantine by way of lock down is presently the only treatment for COVID-19. Thus, the workers remaining homes during lockdown period should be considered equivalent to preventive treatment.
- L. The ESIC should step in and cover the wages and salaries to be paid by the industrial establishments. The pandemic be treated as the equivalent of a disease or a temporary disability and thus compensation under ESIC rules should be paid by the ESIC to the employees. The government should tap funds lying with it as labour welfare corpus to pay wages for lockdown period rather than financially burdening only the employer at a time when the employers such as Petitioner are unable to carry out business due to lock down and there are no significant cash flows.
- M. The Respondents should not compel the employers to pay for the wages for lockdown period but instead should utilize the funds collected by the Employees' State Insurance Corporation (ESIC) in terms of Section 46 of the Employees' State Insurance Act, 1948 to make periodical payments to workers undergoing preventive treatment as a part of the lockdown period against COVID-19. The Employees have been paying an insurance premium to the tune of 4% of their wages every month, which is shared by both the employer and employee as 3.25% & 0.75% respectively.

- N. As per a reported press release by the Press Information Bureau (PIB), 70% salaries will be paid to workers who are not being able to attend work due to the Covid-19 lockdown and the same would be taken as 'sick period'. This was published by Times of India dated 21.04.2020 titled "ESIC to pay 70% salary of 4.2 cr beneficiaries". However, no official notification has been made by the Respondents till date and a new monthly wage cycle commences from 01.05.2020.
- O. Even the Standing Committee on Labour, 2019-2020, Seventeenth Lok Sabha, in its Report on 'The Industrial Relations Code 2019' relating to the Ministry of Labour & Employment which was to Hon'ble Speaker on 23.04.2020, has expressed its reservations over payment of compensation to the workers in the event of closure of an establishment due to natural calamity.
- P. The Payment of salary/wages to employees and workers during the lockdown period is a moral obligation of employer as observed by the Ministry of Corporate Affairs vide its general circular 15/2020 dated 10.04.2020 titled "COVID-19 related Frequently Asked Questions on Corporate Social Responsibility".
- Q. The impugned notifications have been issued by Respondents unilaterally in an arbitrary manner without inviting any objections. Being instrumentality of the state, the Respondents are expected to act in most fair, reasonable and transparent manner and by following the principle of natural justice.

## K

- R. A unilateral and arbitrary direction affecting all industries, commercial establishments and shops etc for an indefinite period across the board without any scientific or mathematical basis cannot be applied across the board. Each business, its debts, its profitability, nature of expenses and business model is different, to be judged by a common direction for all.
- S. The Respondents should subsidize the wages of the workers for the lockdown period, especially for the employers under the MSME Sector to the tune of 70-80 percent, on the lines of subsidy / grants offered by countries like Australia, Canada & UK and many other such Countries.

The Government of United Kingdom announced the Corona Virus Job Security Scheme on 26.03.2020 to covers 80% of employees' monthly wage costs, up to £2,500 a month. As per the scheme, if a business establishment in UK cannot maintain their current workforce because their operations have been severely affected by corona virus (COVID-19), they can furlough employees and apply for a grant that covers 80% of their usual monthly wage costs, up to £2,500 a month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage.

Similarly, Government of Canada has announced the new Canada Emergency Wage Subsidy on 27.03.2020 which would provide a 75% wage subsidy to eligible employers for up to 12 weeks, retroactive to March 15, 2020. In Australia, the Government is providing \$1,500 per fortnight per eligible employee for a maximum of 6 months.

**LIST OF DATES & EVENTS**

31.01.2020	The First case of Corona Virus reported in India in Kerala.
11.03.2020	World Health Organization (WHO) declared Corona Virus Disease (COVID-19) as ‘pandemic’
20.03.2020	DO.No. M-11011/08/2020-Media dated 20.03.2020 was issued by Secretary (Labour & Employment) being an Advisory to Employers / Owners of all establishments in the state, to extend their cooperation by not terminating their employees, particularly casual or contractual workers from job or reduce their wages.
24.03.2020	Hon’ble Prime Minister addressed the nation and announced a nationwide lockdown for 21 days i.e. from 25.03.2020 till 14.04.2020 in the wake of Covid-19 pandemic.
24.03.2020	The Home Secretary, Ministry of Home Affairs in his capacity as chairperson, National Executive Committee while exercising the power, conferred under Section 10(2)(I) of the Disaster Management Act vide Order dated 24.03.2020 issued guidelines to implement lockdown to contain the spread of COVID-19, in all parts of the country for the period of 21 days with effect from 25.03.2020.
24.03.2020	The Union Minister of State, Labour and Employment issued advisory dated 24.03.2020 to all States/UTs, advising them under Section 60 of the Building and Other Construction Workers Act 1996 to transfer funds in the account of construction workers through DBT mode from Cess fund collected by Labour Welfare Boards.

## **M**

- 26.03.2020 The Petitioner company partially resumed its operations at its three factories situated at Bangalore, Karnataka to support some of the customers producing essential products.
- 29.03.2020 Home Secretary, Ministry of Home Affairs, passed Order dated 29.03.2020 under Section 10(2)(l) of the Disaster Management Act 2005. As per clause (iii) of the said order, all the employers, be it in the industry or in the shops and commercial establishments shall make payment of wages of their workers at their work places, on the due date, without any deduction, for the period their establishments are under closure during the lockdown.
- 29.03.2020 The Chief Secretary, Haryana Government circulated the MHA order dated 29.03.2020 to all administrative secretaries, nodal officers, Divisional Commissioners and Deputy Commissioners in the state for necessary action.
- 30.3.2020 Chief Labour Commissioner, Ministry of Labour and Employment vide D.O. No. CLC(C)/Covid-19/ Instructions/LS-I dated 30.03.2020 issued to all Regional heads, requested all regional heads to rigorously take up the issue with all principle employers, contractor and all public/ private enterprises in case distress calls are received from workers/ employees by them in their region.
- 10.04.2020 Ministry of Corporate Affairs vide its general circular 15/2020 dated 10.04.2020 observed that payment of salary/ wages to employees and workers during the lockdown period is a moral obligation of the employers.

- 04.04.2020 The Petitioner No.1 sent a letter dated 04.04.2020 through email to the Chief Justice of this Hon'ble Court praying that ESIC be made liable to cover the wages and salaries of insured persons for absence from work period during lockdown on account of COVID-19 by treating this pandemic as a disease or a temporary disability.
- 14.04.2020 Home Secretary, Ministry of Home Affairs vide Order dated 14.04.2020 issued directions that the Lockdown measures stipulated in consolidated guidelines placed on the website of MHA for containment of COVID-19 epidemic will continue to remain in force up to 03.05.2020 to contain the spread of COVID-19 in the country.
- 21.04.2020 A News Article published by Times of India titled "ESIC to pay 70% salary of 4.2 cr beneficiaries". As per the article, the government has declared that ESIC will pay 70% salaries of the workers. The article cited a release by the Press Information Bureau (PIB) as per which 70% salaries will be paid to workers who are not being able to attend work due to the Covid-19 lockdown and the same would be taken as 'sick period'.
- 23.04.2020 The Standing Committee on Labour, 2019-2020, Seventeenth Lok Sabha, presented its Report on 'The Industrial Relations Code 2019' relating to the Ministry of Labour & Employment to Hon'ble Speaker. The committee expressed its reservations over payment of compensation to the workers in the event of closure of an establishment due to natural calamity.
- 27.04.2020 HENCE, THE PRESENT WRIT PETITION.

1. Instruments and Chemicals Private Limited  
Having its Registered office at :  
Model Town Ambala City 134003, Haryana  
Through Auth. Representative Mr. Pradeep Jain
2. Finsys Infotech Limited  
Having its Registered office at :  
TB-06, Crown Plaza, Main Mathura Road,  
Sector 15A, Faridabad 121007, Haryana  
Through Auth. Representative Mrs. Namita Gupta
3. HGI Automotives Private Limited  
Having its Registered office at :  
Plot No. 19, Sector-58 Faridabad 121001, Haryana  
Through Auth. Representative Mr. Suresh Chand Garg
4. Infinity Advertising Services Pvt. Ltd.  
Having its Registered office at :  
Plot No-172 Sector-58, Faridabad 121004, Haryana  
Through Auth. Representative Mr. Tarun Adlakha
5. Jairaj Ancillaries Private Limited  
Having its Registered office at :  
Flat No. 203/3, First Floor, Sona Apartments  
Kaushalaya Park, Hauz Khas, New Delhi 110016  
Through Auth. Representative Mr. Rajiv Chawla  
Also at:  
3B 23, BP, Shaheed Bhagat Singh Road, NIT,  
Faridabad 121001, Haryana

6. K L Export Private Limited  
Having its Registered office at :  
109, Chowdhary Complex 9  
V S Block, Shakarpur New Delhi 110092  
Through Auth. Representative Mr. Vinay Kumar Rastogi  
Also at:  
Plot No. 62, Sector - 68, IMT, Faridabad - 121004, Haryana
7. Neumann Components Private Limited  
Having its Registered office at :  
A 100, Shivalik Near Malviya Bus Terminal New Delhi -17  
Through Auth. Representative Mr. Pawan Kumar Malhotra  
Also at: Tatarpur Road, Palwal 121102, Haryana
8. OMP India Private Limited  
Having its Registered office at :  
Vill. Bhagola Devli Road, Palwal, Haryana 121102  
Through Auth. Representative Mr. Gianfranco Atzeri
9. P C Jain Textile Private Limited  
Having its Registered office at :  
House No 75 4th Floor Model Town North Delhi 110020  
Through Auth. Representative Mr. Ashok Kumar Jain  
Also at:  
31, Sector 6, IMT Manesar, Gurgaon 122050, Haryana
10. Vishwakarma Auto Parts Private Limited  
Having its Registered office at :  
26/63 Gali No-11 Vishwas Nagar, Shahdara Delhi 110032  
Through Auth. Representative Mr. Parveen Kumar Jhamb  
Also at:  
Plot No. 787, Sector 58, Faridabad - 121004, Haryana
11. Vishwakarma Automotive Private Limited  
Having its Registered office at :  
26/63 Gali No-11 Vishwas Nagar, Shahdara Delhi 110032  
Through Auth. Representative Mr. Parveen Kumar Jhamb  
Also at: Plot No. 54, Sector 59, Part II,  
Faridabad - 121004, Haryana

.... Petitioner



## Versus

1. Union of India  
Through the Home Secretary,  
Ministry of Home Affairs  
North Block, New Delhi - 110001
2. Ministry of Labour & Employment  
Through its Secretary,  
Shram Shakti Bhawan,, Rafi Marg,  
New Delhi - 110001
3. Ministry of Corporate Affairs  
Through its Secretary,  
'A' Wing, Shastri Bhawan  
Rajendra Prasad Road,  
New Delhi - 110 001
4. Ministry of Micro, Small and Medium Enterprises  
Through its Secretary,  
Udyog Bhawan, Rafi Marg,  
New Delhi - 110011
5. Employees' State Insurance Corporation  
Through its Director General  
Panchdeep Bhawan  
Comrade Indrajeet Gupta (CIG) Marg,  
New Delhi - 110 002. ...Respondents

**WRIT PETITION UNDER ARTICLE 32 OF**  
**THE CONSTITUTION OF INDIA**

To

The Hon'ble Chief Justice of India  
and his companion Judges of the  
Supreme Court of India

The humble petition of the  
Petitioner above named.

**MOST RESPECTFULLY SHOWETH:**

1. That the present writ petition under Article 32 of the Constitution of India is being filed by the Petitioner challenging the constitutional validity of the D.O. No.M-11011/08/2020-Media dated 20.03.2020 ("Impugned Advisory") issued by Secretary (Labour & Employment) and Order No.40-3/2020-DM-I(A) dated 29.03.2020 ("Impugned Order") passed by Home Secretary, Ministry of Home Affairs, Government of India under Section 10(2)(l) of the Disaster Management Act 2005 ("DMA Act"), together referred to as ("Impugned Notifications"), as being violative of Articles 14 and 19(1)(g) of the Constitution of India

1A. That the petitioner has not approached to the authorities concerned and is directly filing the writ petition under Article 32 of the Constitution of India before this Hon'ble Court as matter is urgent in nature pertaining to payment of wages to the workers for the lockdown period.

2. That the Petitioners have not filed any other petition seeking the reliefs herein in this Hon'ble Court or any other Court.

3. That the facts giving rise to filing of this writ petition are as under: -

- 3.1. The Petitioners are jointly filing the present petition with a common interest of being aggrieved by the Impugned Notifications. The Petitioners are all companies, incorporated under the Companies Act, 1956. The Petitioners are manufacturing / service enterprises registered under the Micro Small Micro Enterprises Development Act 2006. The Petitioners have atleast one of their factories / work place in the state of Haryana. A true copy of Certificate of Incorporation of Petitioner annexed as **ANNEXURE P-1 (COLLY.)** (Pages 50 to 60)
- 3.2. The First case of Corona Virus was reported in India in Kerala on 31.01.2020. The World Health Organization (WHO) declared Corona Virus Disease (COVID-19) as ‘pandemic’ on 11.03.2020
- 3.3 The Secretary (Labour & Employment) issued D.O.No. M-11011/08/2020-Media dated 20.03.2020 to all Chief Secretaries of States / UTs, requesting them to issue necessary Advisory to Employers / Owners of all establishments in the state, to extend their cooperation by not terminating their employees, particularly casual or contractual workers from job or reduce their wages. As per the said letter, 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 on duty. A true copy of Letter dated 20.03.2020 issued by the Secretary (Labour & Employment) is annexed as **ANNEXURE P-2** (Pages 61 to 62).

- 3.4 The Hon'ble Prime Minister addressed the nation and announced a nationwide lockdown for 21 days i.e. from 25.03.2020 till 14.04.2020 in the wake of Covid-19 pandemic. The Home Secretary, Ministry of Home Affairs in his capacity as chairperson, National Executive Committee while exercising the power, conferred under Section 10(2)(I) of the Disaster Management Act vide Order dated 24.03.2020 issued guidelines to implement lockdown to contain the spread of COVID-19, in all parts of the country for the period of 21 days with effect from 25.03.2020. A True Copy of Order dated 24.03.2020 issued by Home Secretary, Ministry of Home Affairs annexed as **ANNEXURE P-3** (Pages 63 to 64).
- 3.5 The Press Information Bureau issued a press release dated 24.03.2020 on Labour Ministry Advisory. As per the press release, Union Minister of State, Labour and Employment issued an advisory dated 24.03.2020 to all Chief Ministers/LGs of all the States/UTs, thereby advising all State Governments/UTs under Section 60 of the Building and Other Construction Workers Act 1996 ("BOCW Act") to transfer funds in the account of construction workers through DBT mode from the Cess fund collected by the Labour Welfare Boards under the BOCW Act. Further, about Rs 52000 crore is available as cess fund and about 3.5 crore construction workers are registered with the welfare Boards. A True Copy of the Press Information Bureau press release dated 24.03.2020 on Labour Ministry Advisory annexed as **ANNEXURE P-4** (Page 65).

- 3.6 The Government of United Kingdom announced the Corona Virus Job Security Scheme on 26.03.2020 to covers 80% of employees' monthly wage costs, up to £2,500 a month. As per the scheme, if a business establishment in UK cannot maintain their current workforce because their operations have been severely affected by coronavirus (COVID-19), they can furlough employees and apply for a grant that covers 80% of their usual monthly wage costs, up to £2,500 a month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage. Similarly, Canada announced the new Canada Emergency Wage Subsidy on 27.03.2020 which would provide a 75% wage subsidy to eligible employers for up to 12 weeks, retroactive to March 15, 2020. In Australia, the Government is providing \$1,500 per fortnight per eligible employee for a maximum of 6 months.
- 3.7 The Home Secretary, Ministry of Home Affairs, Government of India passed Order dated 29.03.2020 under Section 10(2)(l) of the Disaster Management Act 2005 ("DMA Act"). As per clause (iii) of the said order "all the employers, be it in the industry or in the shops and commercial establishments shall make payment of wages of their workers at their work places, on the due date, without any deduction, for the period their establishments are under closure during the lockdown." The Said Order further directs the States / UTs to take necessary action for the violation of the Said Order. A True Copy of Order dated 29.03.2020 issued by Ministry of Home Affairs annexed as **ANNEXURE P-5** (Pages 66 to 68).

- 3.8 The Chief Secretary, Haryana Government vide its letter dated 29.03.2020 has further circulated the impugned order dated 29.03.2020 to all administrative secretaries, nodal officers, Divisional Commissioners and Deputy Commissioners in the state for necessary action. A True Copy of Letter dated 29.03.2020 issued by Haryana Government annexed as **ANNEXURE P-6** (Pages 69 to 70).
- 3.9 The Chief Labour Commissioner, Ministry of Labour and Employment vide letter dated 30.03.2020 to all Regional heads, while referring to Impugned Advisory dated 20.03.2020 issued by Secretary (Labour & Employment) & Impugned Order dated 30.03.2020 passed by Ministry of Home Affairs, requested them to rigorously take up the issue with all principle employers, contractor and all public/ private enterprises in case distress calls are received from workers/ employees by them in their region. A True Copy of Letter dated 30.03.2020 by Chief Labour Commissioner, Ministry of Labour and Employment to all Regional heads is annexed as **ANNEXURE P-7** (Pages 71 to 72).
- 3.10. The Petitioner No.1 sent a letter dated 04.04.2020 through email to the Chief Justice of this Hon'ble Court with praying that ESIC (Employees State Insurance Corporation) be made liable to cover the wages and salaries of insured persons for absence from work period during lockdown/curfew on account of COVID-19 pandemic by treating this pandemic as a disease or a temporary disability. A True Copy of Letter dated 04.04.2020 by Petitioner No.1 to Chief Justice of this Hon'ble Court is annexed as **ANNEXURE P-8** (Pages 73 to 75).

- 3.11 That Ministry of Corporate Affairs vide its general circular 15/2020 dated 10.04.2020 titled “COVID-19 related Frequently Asked Questions (FAQs) on Corporate Social Responsibility (CSR)” observed that “Payment of salary/wages in normal circumstances is a contractual and statutory obligation of the company. Similarly, payment of salary/wages to employees and workers even during the lockdown period is a moral obligation of the employers, as they have no alternative source of employment or livelihood during this period.”. A True Circular dated 10.04.2020 issued by Ministry of Corporate Affairs annexed as **ANNEXURE P-9** (Pages 76 to 79)
- 3.12 The Home Secretary, Ministry of Home Affairs vide Order dated 14.04.2020 issued directions that the Lockdown measures stipulated in consolidated guidelines placed on its website for containment of COVID-19 epidemic in the country, will continue to remain in force up to 03.05.2020 . A True Copy of Order dated 14.04.2020 issued by Home Secretary, Ministry of Home Affairs is annexed as **ANNEXURE P-10** (Pages 80 to 81).
- 3.13 A News Article was published by Times of India dated 21.04.2020 titled “ESIC to pay 70% salary of 4.2 cr beneficiaries”. As per the article, the government has declared that ESIC will pay 70% salaries of the workers. The article cited a release by the Press Information Bureau (PIB) as per which 70% salaries will be paid to workers who are not being able to attend work due to the Covid-19 lockdown and the same would be taken as ‘sick period’. A True Typed Copy of News Article dated 21.04.2020 from Times of India website is annexed as **ANNEXURE P-11** (Pages 82 to 83).

3.14 The Standing Committee on Labour, 2019-2020, Seventeenth Lok Sabha, presented its Report on 'The Industrial Relations Code 2019' relating to the Ministry of Labour & Employment to Hon'ble Speaker on 23.04.2020. The committee expressed its reservations over payment of compensation to the workers in the event of closure of an establishment due to natural calamity. A True Typed Copy of News Article dated 24.04.2020 from Economic Times website titled "Industries cannot be forced to pay wages during lockdown: Chief of parliamentary panel on labour" is annexed as **ANNEXURE P-12** (Pages 84 to 85).

4. That the petitioners are filing the present writ petition petition under Article 32 of the Constitution of India challenging the constitutional validity of the D.O. No.M-11011/08/2020-Media dated 20.03.2020 issued by Secretary (Labour & Employment) and Order No.40-3/2020-DM-I(A) dated 29.03.2020 passed by Home Secretary, Ministry of Home Affairs, Government of India under Section 10(2)(l) of the Disaster Management Act 2005 ("DMA Act"), as being arbitrary and violative of Articles 14 and 19(1)(g) of the Constitution of India on the following amongst other grounds:

### **GROUND**

A. BECAUSE the Impugned Notifications are arbitrary, illegal, irrational, unreasonable and contrary to the provisions of law including Article 14 and Article 19(1)(g) of the Constitution of India and is *ipso facto* reason enough to strike down the impugned notifications. By way of the the impugned notifications, an otherwise stable and solvent MSME industry could be forced into insolvency. Consequently, the very notifications issued for the benefit of the workers would in fact adversely impact those workers in the long term, who would be rendered unemployed.



B. BECAUSE the Central Government in terms of Section 46 of DMA 2005 has the power to constitute National Disaster Response Fund towards meeting the expenses for emergency response, relief and rehabilitation. Similarly, Section 47 of DMA 2005, empowers the Central Government has the power to constitute National Disaster Mitigation Fund for the purpose of mitigation. Even though the Central government has the power to allocate fund for emergency response, relief, rehabilitation, mitigation of disasters under DMA 2005 it cannot enforce financial obligations upon the private establishments.

C. BECAUSE the Respondent No.1 under the Disaster Management Act do not have any legislative powers to pass the Impugned Order, thereby, to direct private establishments with respect to matters of employment, wages, layoff, retrenchment etc. The Respondent No.1 cannot invoke Section 10(2)(1) or any other provision of the Disaster Management Act 2005 (“DMA 2005”) to impose financial obligations on private sector such as payment of wages, contrary to the obligation of state under Article 43 of Constitution of India.

D. BECAUSE in terms of Section 65 of DMA 2005 the National Executive Committee is empowered to requisition of resources, provisions, vehicles, etc., for rescue operations and that too by Payment of Compensation in terms of Section 66 of DMA 2005. However, the ultimate onus for any compensation towards workers shall ultimately be of the Government and the said liability cannot be shifted upon the employers in private establishments.

E. BECAUSE in its present form, any non compliance of Impugned Provisions could even lead to coercive action against the Petitioners / Employers under Section 57 of the Disaster Management Act and / or Section 188 of the Indian Penal Code, being punishable with fine and / or imprisonment which may extend even up to two years.

F. BECAUSE the impugned notifications are in violation of Article 14 and Article 39 of the Constitution of India, being contrary to principle of “Equal Work Equal Pay” and also “No Work No Pay” for it does not differentiate between the workers who are working during the lock down period in establishments such as the Petitioner who have been permitted to operate during the lockdown period. While the intent of MHA to pass impugned order appears to be to safeguard the interest of MHA workers, it has arbitrarily expanded the scope to all workers across the board.

G. BECAUSE the Impugned Notifications are contrary to Article 300A of the Constitution of India as per which No person shall be deprived of his property save by the authority of law. However, by way of enforcement of Impugned Notifications, the Respondents are compelling Petitioner to meet out an expense which is otherwise the obligation of the Respondents and not that of the Petitioners.

H. BECAUSE the amounts paid by the employer to its workers cannot be treated as “Wages” in terms of definition of Wages under the Section 2(rr) of Industrial Dispute Act 1947. At the most it should it be treated as advance payment, being adjustable in future wages or compensation for layoff / retrenchment under I.D. Act.

I. BECAUSE the Petitioners should be entitled to laying off & retrench workers in term of Section 2(kkk), Section 2(oo) and Sections 25C to 25N of I.D. Act. As per Section 25M of I.D. Act there is no prohibition of layoff or a permission from the government, if such layoff is due to a natural calamity. Further, the Respondents cannot legally override the contracts between Employers and Contractors for contractual work. The Respondents cannot restrain the Petitioners from terminating their contracts, especially when the market demand post Covid-19 has contracted and the cash flow of the Petitioners has been severally hampered.

J. BECAUSE the Respondents cannot arbitrarily differentiate against the construction workers & workers in other Industry for utilization of welfare funds to compensate the workers for the lockdown period. The Union Minister of State, Labour and Employment issued an advisory dated 24.03.2020 to all Chief Ministers/LGs of all the States/UTs, thereby advising all State Governments/UTs under Section 60 of the Building and Other Construction Workers Act 1996 (“BOCW Act”) to transfer funds in the account of construction workers through DBT mode from the Cess fund collected by the Labour Welfare Boards.

K. BECAUSE the Respondents should not compel the employers to pay for the wages for lockdown period but instead should utilize the funds collected by the Employees' State Insurance Corporation (ESIC) in terms of Section 46 of the Employees' State Insurance Act, 1948 to make periodical payments to workers undergoing preventive treatment as a part of the lockdown period against COVID-19. It is well established, that staying in self quarantine by way of lock down is presently the only treatment for COVID-19. Thus, the workers remaining homes during lockdown period should be considered equivalent to preventive treatment. The workers and their family would have been put to greater risk of life and well being, if the lockdown were in place.

L. BECAUSE the ESIC should step in and cover the wages and salaries to be paid by the industrial establishments. The pandemic be treated as the equivalent of a disease or a temporary disability and thus compensation under ESIC rules should be paid by the ESIC to the employees. The government should tap funds lying with it as labour welfare corpus to pay wages for lockdown period rather than financially burdening only the employer at a time when the employers such as Petitioner are unable to carry out business due to lock down and there are no significant cash flows.

M. BECAUSE free funds to the tune of Rs60,000 crore are available with ESIC which could should cover 70% of the wages for the 4.72 crore employees registered with the corporation, for the lockdown period. Employees / Insured persons have been paying an insurance premium to the tune of 4% of their wages every month, 3.25% of wage amount is paid by the employer and 0.75% by the employee / worker. The ESIC could easily increase the premium charged on wages share in the future for an appropriate period of time so as to cover the additional expense it may incur during these trying times.

N. BECAUSE as per a reported press release by the Press Information Bureau (PIB), 70% salaries will be paid to workers who are not being able to attend work due to the Covid-19 lockdown and the same would be taken as 'sick period'. This was published by Times of India dated 21.04.2020 titled "ESIC to pay 70% salary of 4.2 cr beneficiaries". However, no official notification has been made by the Respondents till date and a new monthly wage cycle commences from 01.05.2020.

O. BECAUSE even the Standing Committee on Labour, 2019-2020, Seventeenth Lok Sabha, in its Report on 'The Industrial Relations Code 2019' relating to the Ministry of Labour & Employment which was to Hon'ble Speaker on 23.04.2020, has expressed its reservations over payment of compensation to the workers in the event of closure of an establishment due to natural calamity.

P. BECAUSE the Payment of salary/wages to employees and workers during the lockdown period is a moral obligation of employer as observed by the Ministry of Corporate Affairs vide its general circular 15/2020 dated 10.04.2020 titled "COVID-19 related Frequently Asked Questions on Corporate Social Responsibility".

Q. BECAUSE the impugned notifications have been issued by Respondents unilaterally in an arbitrary manner without inviting any objections. Being instrumentality of the state, the Respondents are expected to act in most fair, reasonable and transparent manner and by following the principle of natural justice.

R. BECAUSE a unilateral and arbitrary direction affecting all industries, commercial establishments and shops etc for an indefinite period across the board without any scientific or mathematical basis cannot be applied across the board. Each business, its debts, its profitability, nature of expenses and business model is different, to be judged by a common direction for all.

S. BECAUSE the Respondents should subsidize the wages of the workers for the lockdown period, especially for the employers under the MSME Sector to the tune of 70-80 percent, on the lines of subsidy / grants offered by countries like Australia, Canada & UK and many other such Countries. The Government of United Kingdom announced the Corona Virus Job Security Scheme on 26.03.2020 to covers 80% of employees' monthly wage costs, up to £2,500 a month. As per the scheme, if a business establishment in UK cannot maintain their current workforce because their operations have been severely affected by corona virus (COVID-19), they can furlough employees and apply for a grant that covers 80% of their usual monthly wage costs, up to £2,500 a month, plus the associated Employer National Insurance contributions and minimum automatic enrolment employer pension contributions on that wage. Similarly, Government of Canada has announced the new Canada Emergency Wage Subsidy on 27.03.2020 which would provide a 75% wage subsidy to eligible employers for up to 12 weeks, retroactive to March 15, 2020. In Australia, the Government is providing \$1,500 per fortnight per eligible employee for a maximum of 6 months.

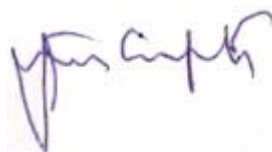
**PRAYER**

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

- i) Issue a writ, order or direction in the nature of a declaration or certiorari or any other appropriate writ, order or directions declaring D.O. No.M-11011/08/2020-Media dated 20.03.2020 issued by Secretary (Labour & Employment) and Order No.40-3/2020-DM-I(A) dated 29.03.2020 passed by Home Secretary, Ministry of Home Affairs are ultra vires Article 14, 19(1)(g) of the Constitution of India; AND/OR
- ii) Issue a writ, order or direction in the nature of a mandamus or any other appropriate writ, order or directions, thereby directing the Respondents to subsidize the wages of workers to the tune of 70% for lockdown period by utilizing the funds collected by the Employees' State Insurance Corporation (ESIC) or the PM Cares Fund or through any other Government Fund / Scheme, AND/OR
- iii) Pass such other order or orders as may be deemed fit and proper and just and necessary in the interest of complete justice.

AND FOR WHICH ACT OF KINDNESS OF THIS HON'BLE COURT, THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

Drawn & Filed by:



(JEETENDER GUPTA)  
(Advocate for the Petitioner)

AOR # 2713

Drawn on: 23.04.2020

Filed on: 27.04.2020

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (C) NO. OF 2020

(Under order XXXVIII of the Supreme Court Rules, 2013)

**IN THE MATTER OF:**

Instruments and Chemicals Pvt. Ltd. & Ors. ...PETITIONER

VERSUS

Union of India & Ors. ...RESPONDENTS

**AFFIDAVIT**

I, Pradeep Jain, S/o Late Sh. Devi Prasad Jain, aged about 54 years, Authorized Representative, M/s Instruments and Chemicals Pvt. Ltd., having its Registered office at Model Town Ambala City, Haryana 134003, do hereby solemnly affirm and declare on behalf of all the Petitioners, as under:

1. That I am the Authorized Representative of the Petitioner No.1 in the above said matter and am conversant with the facts and circumstances of the case and competent to swear this affidavit.
2. That I have read and understood the contents of the accompanying Writ Petition (Civil) containing pages 1 to 16, Paragraph 1 to 4, Grounds A to S and List of Dates and facts from pages B to N and each and every I.A and have understood the contents thereof. The facts stated therein are true and correct to record of the case, which I believe to be true. Nothing material has been concealed therefrom.
3. That Writ Petition and I.As have been drafted by my advocate-on-record on my instructions.
4. That the Annexures filed herewith are true / typed copies of their respective originals.



**DEPONENT**

**VERIFICATION**

I, Pradeep Jain, the above named deponent, do hereby verify that the contents of the above stated affidavit are true and correct to my knowledge and belief. No Part of it is false and nothing material has been concealed there from.

Verified at Chandigarh, (U.T) on this the 23rd day of April, 2020

**DEPONENT**



**APPENDIX :**

Relevant portions of relied upon Sections / Acts

**THE CONSTITUTION OF INDIA****Article 14. Right to Equality**

14. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

**Article 19. Right to Freedom**

19. (1) All citizens shall have the right—

- (a) to freedom of speech and expression;
- (b) to assemble peaceably and without arms;
- (c) to form associations or unions;
- (d) to move freely throughout the territory of India;
- (e) to reside and settle in any part of the territory of India; [and]
- (g) to practise any profession, or to carry on any occupation, trade or business.

(2) Nothing in sub-clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub-clause in the interests of [the sovereignty and integrity of India,] the security of the State, friendly relations with foreign States, public order, decency or morality, or in relation to contempt of court, defamation or incitement to an offence.]

3) Nothing in sub-clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of 4[the sovereignty and integrity of India or] public order, reasonable restrictions on the exercise of the right conferred by the said sub-clause.

(4) Nothing in sub-clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of [the sovereignty and Protection of certain rights regarding freedom of speech, etc.

(5) Nothing in [sub-clauses (d) and (e)] of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub-clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe.

(6) Nothing in sub-clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub-clause, and, in particular, [nothing in the said sub-clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,—

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise].

**Article 39. Certain principles of policy to be followed by the State.**

39. The State shall, in particular, direct its policy towards securing -

(a) that the citizens, men and women equally, have the right to an adequate means of livelihood;

- (b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;
- (c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;
- (d) that there is equal pay for equal work for both men and women;
- (e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;
- (f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

**Article 43. Living wage, etc. for workers.**

43. The State shall endeavour to secure, by suitable legislation or economic organisation or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage, conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities and, in particular, the State shall endeavour to promote cottage industries on an individual or co-operative basis in rural areas.

**Article 300A. Persons not to be deprived of property save by authority of law.**

300A. No person shall be deprived of his property save by authority of law.

**THE DISASTER MANAGEMENT ACT, 2005****ACT NO. 53 OF 2005****[23RD DECEMBER, 2005]**

An Act to provide for the effective management of disasters and for matters connected therewith or incidental thereto.

**Section 2(d) and 2(d) in the Disaster Management Act, 2005**

**Section 2: Definitions** - In this Act, unless the context otherwise requires -

(d) “disaster” means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area;

(e) “disaster management” means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for—

- (i) prevention of danger or threat of any disaster;
- (ii) mitigation or reduction of risk of any disaster or its severity or consequences;
- (iii) capacity-building;
- (iv) preparedness to deal with any disaster;
- (v) prompt response to any threatening disaster situation or disaster;
- (vi) assessing the severity or magnitude of effects of any disaster;
- (vii) evacuation, rescue and relief;
- (viii) rehabilitation and reconstruction;

**Section 6 in the Disaster Management Act, 2005****6. Powers and functions of National Authority. -**

(1) Subject to the provisions of this Act, the National Authority shall have the responsibility for laying down the policies, plans and guidelines for disaster management for ensuring timely and effective response to disaster.

(2) Without prejudice to generality of the provisions contained in sub-section (1), the National Authority may —

- (a) lay down policies on disaster management;
- (b) approve the National Plan;
- (c) approve plans prepared by the Ministries or Departments of the Government of India in accordance with the National Plan;
- (d) lay down guidelines to be followed by the State Authorities in drawing up the State Plan;
- (e) lay down guidelines to be followed by the different Ministries or Departments of the Government of India for the purpose of integrating the measures for prevention of disaster or the mitigation of its effects in their development plans and projects;
- (f) coordinate the enforcement and implementation of the policy and plan for disaster management;
- (g) recommend provision of funds for the purpose of mitigation;
- (h) provide such support to other countries affected by major disasters as may be determined by the Central Government;
- (i) take such other measures for the prevention of disaster, or the mitigation, or preparedness and capacity building for dealing with the threatening disaster situation or disaster as it may consider necessary;
- (j) lay down broad policies and guidelines for the functioning of the National Institute of Disaster Management.

(3) The Chairperson of the National Authority shall, in the case of emergency, have power to exercise all or any of the powers of the National Authority but exercise of such powers shall be subject to ex post facto ratification by the National Authority

### **Section 10 in the Disaster Management Act, 2005**

#### **10. Powers and functions of National Executive Committee.—**

(1) The National Executive Committee shall assist the National Authority in the discharge of its functions and have the responsibility for implementing the policies and plans of the National Authority and ensure the compliance of directions issued by the Central Government for the purpose of disaster management in the country.

(2) Without prejudice to the generality of the provisions contained in sub-section (1), the National Executive Committee may—

- (a) act as the coordinating and monitoring body for disaster management;
- (b) prepare the National Plan to be approved by the National Authority;
- (c) coordinate and monitor the implementation of the National Policy;
- (d) lay down guidelines for preparing disaster management plans by different Ministries or Departments of the Government of India and the State Authorities;
- (e) provide necessary technical assistance to the State Governments and the State Authorities for preparing their disaster management plans in accordance with the guidelines laid down by the National Authority;
- (f) monitor the implementation of the National Plan and the plans prepared by the Ministries or Departments of the Government of India;

- (g) monitor the implementation of the guidelines laid down by the National Authority for integrating of measures for prevention of disasters and mitigation by the Ministries or Departments in their development plans and projects;
- (h) monitor, coordinate and give directions regarding the mitigation and preparedness measures to be taken by different Ministries or Departments and agencies of the Government;
- (i) evaluate the preparedness at all governmental levels for the purpose of responding to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness;
- (j) plan and coordinate specialised training programme for disaster management for different levels of officers, employees and voluntary rescue workers;
- (k) coordinate response in the event of any threatening disaster situation or disaster;
- (l) lay down guidelines for, or give directions to, the concerned Ministries or Departments of the Government of India, the State Governments and the State Authorities regarding measures to be taken by them in response to any threatening disaster situation or disaster;
- (m) require any department or agency of the Government to make available to the National Authority or State Authorities such men or material resources as are available with it for the purposes of emergency response, rescue and relief;
- (n) advise, assist and coordinate the activities of the Ministries or Departments of the Government of India, State Authorities, statutory bodies, other governmental or non-governmental organisations and others engaged in disaster management;
- (o) provide necessary technical assistance or give advice to the State Authorities and District Authorities for carrying out their functions under this Act;

- (p) promote general education and awareness in relation to disaster management; and
- (q) perform such other functions as the National Authority may require it to perform.

### **Section 35 in the Disaster Management Act, 2005.**

#### **35. Central Government to take measures.—**

- (1) Subject to the provisions of this Act, the Central Government shall take all such measures as it deems necessary or expedient for the purpose of disaster management.
- (2) In particular and without prejudice to the generality of the provisions of sub-section (1), the measures which the Central Government may take under that sub-section include measures with respect to all or any of the following matters, namely:—
  - (a) coordination of actions of the Ministries or Departments of the Government of India, State Governments, National Authority, State Authorities, governmental and non-governmental organisations in relation to disaster management;
  - (b) ensure the integration of measures for prevention of disasters and mitigation by Ministries or Departments of the Government of India into their development plans and projects;
  - (c) ensure appropriate allocation of funds for prevention of disaster, mitigation, capacity-building and preparedness by the Ministries or Departments of the Government of India;
  - (d) ensure that the Ministries or Departments of the Government of India take necessary measures for preparedness to promptly and effectively respond to any threatening disaster situation or disaster;
  - (e) cooperation and assistance to State Governments, as requested by them or otherwise deemed appropriate by it;
  - (f) deployment of naval, military and air forces, other armed forces of the Union or any other civilian personnel as may be required for the purposes of this Act;



(g) coordination with the United Nations agencies, international organisations and governments of foreign countries for the purposes of this Act;

(h) establish institutions for research, training, and developmental programmes in the field of disaster management;

(i) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act.

(3) The Central Government may extend such support to other countries affected by major disaster as it may deem appropriate.

#### **Section 46 in the Disaster Management Act, 2005.**

##### **46. National Disaster Response Fund.—**

(1) The Central Government may, by notification in the Official Gazette, constitute a fund to be called the National Disaster Response Fund for meeting any threatening disaster situation or disaster and there shall be credited thereto—

(a) an amount which the Central Government may, after due appropriation made by Parliament by law in this behalf provide;

(b) any grants that may be made by any person or institution for the purpose of disaster management.

(2) The National Disaster Response Fund shall be made available to the National Executive Committee to be applied towards meeting the expenses for emergency response, relief and rehabilitation in accordance with the guidelines laid down by the Central Government in consultation with the National Authority.

**Section 47 in the Disaster Management Act, 2005.****47. National Disaster Mitigation Fund.—**

(1) The Central Government may, by notification in the Official Gazette, constitute a Fund to be called the National Disaster Mitigation Fund for projects exclusively for the purpose of mitigation and there shall be credited thereto such amount which the Central Government may, after due appropriation made by Parliament by law in this behalf, provide.

(2) The National Disaster Mitigation Fund shall be applied by the National Authority.

**Section 51 in the Disaster Management Act, 2005.****51. Punishment for obstruction, etc.—**

Whoever, without reasonable cause—

(a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or

(b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

**Section 57 in the Disaster Management Act, 2005.**

**57. Penalty for contravention of any order regarding requisitioning.**— If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

**Section 58 in the Disaster Management Act, 2005.**

**58. Offence by companies.**—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm

**Section 62 in the Disaster Management Act, 2005.****62. Power to issue direction by Central Government.—**

Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the Central Government to issue direction in writing to the Ministries or Departments of the Government of India, or the National Executive Committee or the State Government, State Authority, State Executive Committee, statutory bodies or any of its officers or employees, as the case may be, to facilitate or assist in the disaster management and such Ministry or Department or Government or Authority, Executive Committee, statutory body, officer or employee shall be bound to comply with such direction.

**Section 65 in the Disaster Management Act, 2005.****65. Power of requisition of resources, provisions, vehicles, etc., for rescue operations, etc.—**

(1) If it appears to the National Executive Committee, State Executive Committee or District Authority or any officer as may be authorised by it in this behalf that—

(a) any resources with any authority or person are needed for the purpose of prompt response;

(b) any premises are needed or likely to be needed for the purpose of rescue operations; or

(c) any vehicle is needed or is likely to be needed for the purposes of transport of resources from disaster affected areas or transport of resources to the affected area or transport in connection with rescue, rehabilitation or reconstruction,

such authority may, by order in writing, requisition such resources or premises or such vehicle, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning.

(2) Whenever any resource, premises or vehicle is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such resource, premises or vehicle is required for any of the purposes mentioned in that sub-section.

(3) In this section,—

(a) “resources” includes men and material resources;

(b) “services” includes facilities;

(c) “premises” means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(d) “vehicle” means any vehicle used or capable of being used for the purpose of transport, whether propelled by mechanical power or otherwise.

### **Section 66 in the Disaster Management Act, 2005.**

#### **66. Payment of compensation.—**

(1) Whenever any Committee, Authority or officer referred to in sub-section (1) of section 65, in pursuance of that section requisitions any premises, there shall be paid to the persons interested compensation the amount of which shall be determined by taking into consideration the following, namely:—

(i) the rent payable in respect of the premises, or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if as consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the thirty days to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator, the

amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the Central Government or the State Government, as the case may be, to an arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation.—In this sub-section, the expression “person interested” means the person who was in actual possession of the premises requisitioned under section 65 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) Whenever any Committee, Authority or officer, referred to in sub-section (1) of section 65 in pursuance of that section requisitions any vehicle, there shall be paid to the owner thereof compensation the mount of which shall be determined by the Central Government or the State Government, as the case may be, on the basis of the fares or rates prevailing in the locality for the hire of such vehicle:

Provided that where the owner of such vehicle being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Central Government or the State Government, as the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Central Government or the State Government, as the case may be, may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was by virtue of a hire purchase agreement in

the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the Central Government or the State Government, as the case may be, in this behalf may decide.

**Section 71 in the Disaster Management Act, 2005.**

**71. Bar of jurisdiction of court.**— No court (except the Supreme Court or a High Court) shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken, orders made, direction, instruction or guidelines issued by the Central Government, National Authority, State Government, State Authority or District Authority in pursuance of any power conferred by, or in relation to its functions, by this Act.

**Section 72 in the Disaster Management Act, 2005.**

**72. Act to have overriding effect.**— The provisions of this Act, shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

**Section 75 in the Disaster Management Act, 2005.**

**75. Power of Central Government to make rules.**—

(1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the composition and number of the members of the National Authority under sub-section (2), and the term of office and conditions of service of members of the National Authority under sub-section (4), of section 3;
- (b) the allowances to be paid to the members of the advisory committee under sub-section (2) of section 7;
- (c) the powers and functions of the Chairperson of the National Executive Committee under sub-section (3) of section 8 and the procedure to be followed by the National Executive Committee in exercise of its powers and discharge of its functions under sub-section (4) of section 8;
- (d) allowances to be paid to the persons associated with the sub-committee constituted by the National Executive Committee under sub-section (3) of section 9;
- (e) the number of members of the National Institute of Disaster Management under sub-section (2), the term of the office and vacancies among members and the manner of filling such vacancies under sub-section (3) and the manner of constituting the Governing Body of the National Institute of Disaster Management under sub-section (4) of section 42;
- (f) the manner of constitution of the Force, the conditions of service of the members of the Force, including disciplinary provisions under sub-section (2) of section 44;
- (g) the manner in which notice of the offence and of the intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government or the other authority or officer under clause (b) of section 60;
- (h) the form in which and the time within which annual report is to be prepared under section 70;
- (i) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.



**Section 76 in the Disaster Management Act, 2005.****76. Power to make regulations.—**

(1) The National Institute of Disaster Management, with the previous approval of the Central Government may, by notification in the Official Gazette, make regulations consistent with this Act and the rules made thereunder to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

- (a) powers and functions to be exercised and discharged by the governing body;
- (b) procedure to be followed by the governing body in exercise of the powers and discharge of its functions;
- (c) any other matter for which under this Act provision may be made by the regulations.

**Section 77 in the Disaster Management Act, 2005.****77. Rules and regulations to be laid before Parliament.—**

Every rule made by the Central Government and every regulation made by the National Institute of Disaster Management under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised of one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

## THE INDUSTRIAL DISPUTES ACT, 1947

### Section 2 in The Industrial Disputes Act, 1947

**Section 2: Definitions** - In this Act, unless there is anything repugnant in the subject or context, -

**2(g) “employer” means,—**

- (i) in relation to an industry carried on by or under the authority of any department of [the Central Government or a State Government], the authority prescribed in this behalf, or where no authority is prescribed, the head of the department;
- (ii) in relation to an industry carried on by or on behalf of a local authority, the chief executive officer of that authority;

**2(kkk) “lay-off”** (with its grammatical variations and cognate expressions) means the failure, refusal or inability of an employer on account of shortage of coal, power or raw materials or the accumulation of stocks or the break-down of machinery [or natural calamity or for any other connected reason] to give employment to a workman whose name is borne on the muster rolls of his industrial establishment and who has not been retrenched.

Explanation.—Every workman whose name is borne on the muster rolls of the industrial establishment and who presents himself for work at the establishment at the time appointed for the purpose during normal working hours on any day and is not given employment by the employer within two hours of his so presenting himself shall be deemed to have been laid-off for that day within the meaning of this clause:

Provided that if the workman, instead of being given employment at the commencement of any shift for any day is asked to present himself for the purpose during the second half of the shift for the day and is given employment then, he shall be deemed to have been laid-off only for one-half of that day:

**2(oo) “retrenchment”** means the termination by the employer of the service of a workman for any any reason whatsoever, otherwise than as a punishment inflicted by way of disciplinary action, but does not include—

- (a) voluntary retirement of the workman; or
- (b) retirement of the workman on reaching the age of superannuation if the contract of employment between the employer and the workman concerned contains a stipulation in that behalf; or
- (bb) termination of the service of the workman as a result of the non-renewal of the contract contract of employment between the employer and the workman concerned on its expiry or of such contract being terminated under a stipulation in that behalf contained therein; or]
- (c) termination of the service of a workman on the ground of continued ill-health;]

Provided further that if he is not given any such employment even after so presenting himself, he shall not be deemed to have been laid-off for the second half of the shift for the day and shall be entitled to full basic wages and dearness allowance for that part of the day;]

**2(rr) “wages”** means all remuneration capable of being expressed in terms of money, which would, if the terms of employment, expressed or implied, were fulfilled, be payable to a workman in respect of his employment or of work done in such employment, and includes—

- (i) such allowances (including dearness allowance) as the workman is for the time being entitled to;
- (ii) the value of any house accommodation, or of supply of light, water, medical attendance or other amenity or of any service or of any concessional supply of foodgrains or other articles;
- (iii) any travelling concession;

(iv) any commission payable on the promotion of sales or business or both;

but does not include—

(a) any bonus;

(b) any contribution paid or payable by the employer to any pension fund or provident fund or for the benefit of the workman under any law for the time being in force;

(c) any gratuity payable on the termination of his service;]

**2(s) “workman”** means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person—

(i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957);

or

(ii) who is employed in the police service or as an officer or other employee of a prison; or

(iii) who is employed mainly in a managerial or administrative capacity; or

(iv) who, being employed in a supervisory capacity, draws wages exceeding [ten thousand rupees] per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.]

**Section 25C in The Industrial Disputes Act, 1947****25C. Right of workmen laid-off for compensation.—**

Whenever a workman (other than a badli workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment and who has completed not less than one year of continuous service under an employer is laid-off, whether continuously or intermittently, he shall be paid by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene, compensation which shall be equal to fifty per cent. of the total of the basic wages and dearness allowance that would have been payable to him had he not been so laid-off:

Provided that if during any period of twelve months, a workman is so laid-off for more than forty-five days, no such compensation shall be payable in respect of any period of the lay-off after the expiry of the first forty-five days, if there is an agreement to that effect between the workman and the employer:

Provided further that it shall be lawful for the employer in any case falling within the foregoing proviso to retrench the workman in accordance with the provisions contained in section 25F at any time after the expiry of the first forty-five days of the lay-off and when he does so, any compensation paid to the workman for having been laid-off during the preceding twelve months may be set off against the compensation payable for retrenchment.

Explanation.—"Badli workman" means a workman who is employed in an industrial establishment in the place of another workman whose name is borne on the muster rolls of the establishment, but shall cease to be regarded as such for the purposes of this section, if he has completed one year of continuous service in the establishment.]

### **Section 25E in The Industrial Disputes Act, 1947**

#### **25E. Workmen not entitled to compensation in certain cases.—**

**No compensation shall be paid to a workman who has been laid-off—**

- (i) if he refuses to accept any alternative employment in the same establishment from which he has been laid-off, or in any other establishment belonging to the same employer situate in the same town or village or situate within a radius of five miles from the establishment to which he belongs, if, in the opinion of the employer, such alternative employment does not call for any special skill or previous experience and can be done by the workman, provided that the wages which would normally have been paid to the workman are offered for the alternative employment also;
- (ii) if he does not present himself for work at the establishment at the appointed time during normal working hours at least once a day;
- (iii) if such laying-off is due to a strike or slowing-down of production on the part of workmen in another part of the establishment.

### **Section 25F in The Industrial Disputes Act, 1947**

#### **25F. Conditions precedent to retrenchment of workmen.—**

No workman employed in any industry 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 one month's 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 the notice;
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay [for every completed year of continuous service] or any part thereof in excess of six months; and

(c) notice in the prescribed manner is served on the appropriate Government [or such authority as may be specified by the appropriate Government by notification in the Official Gazette].

### **Section 25G in The Industrial Disputes Act, 1947**

#### **25G. Procedure for retrenchment.—**

Where any workman in an industrial establishment, who is a citizen of India, is to be retrenched and he belongs to a particular category of workmen in that establishment, in the absence of any agreement between the employer and the workman in this behalf, the employer shall ordinarily retrench the workman who was the last person to be employed in that category, unless for reasons to be recorded the employer retrenches any other workman.

### **Section 25J in The Industrial Disputes Act, 1947**

#### **25J. Effect of laws inconsistent with this Chapter.—**

(1) The provisions of this Chapter shall have effect notwithstanding anything inconsistent therewith contained in any other law [including standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946)]:

[Provided that where under the provisions of any other Act or rules, orders or notifications issued thereunder or under any standing orders or under any award, contract of service or otherwise, a workman is entitled to benefits in respect of any matter which are more favourable to him than those to which he would be entitled under this Act, the workman shall continue to be entitled to the more favourable benefits in respect of that matter, notwithstanding that he receives benefits in respect of other matters under this Act.]

(2) For the removal of doubts, it is hereby declared that nothing contained in this Chapter shall be deemed to affect the provisions of any other law for the time being in force in any State in so far as that law provides for the settlement of industrial disputes, but the rights and liabilities of employers and workmen in so far as they relate to lay-off and retrenchment shall be determined in accordance with the provisions of this Chapter.]

**Section 25M in The Industrial Disputes Act, 1947****25M. Prohibition of lay-off.—**

(1) No workman (other than a badli workman or a casual workman) whose name is borne on the muster rolls of an industrial establishment to which this Chapter applies shall be laid-off by his employer except 1[with 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), obtained on an application made in this behalf, unless such lay-off is due to shortage of power or to natural calamity, and in the case of a mine, such lay-off is due also to fire, flood, excess of inflammable gas or explosion].

(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 lay-off and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

(3) Where the workman (other than badli workmen or casual workmen) of an industrial establishment, being a mine, have been laid-off under sub-section (1) for reasons of fire, flood or excess of inflammable gas or explosion, the employer, in relation to such establishment, shall, within a period of thirty days from the date of commencement of such lay-off, apply, in the prescribed manner, to the appropriate Government or the specified authority for permission to continue the lay-off.

(4) Where an application for permission under sub-section (1) or sub-section (3) 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 persons interested in such lay-off, may, having regard to the genuineness and adequacy of the reasons for such lay-off, 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.

(5) Where an application for permission under sub-section (1) or sub-section (3) has been made and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(6) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (7), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(7) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (4) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(8) Where no application for permission under sub-section (1) is made, or where no application for permission under sub-section (3) is made within the period specified therein, or where the permission for any lay-off has been refused, such lay-off shall be deemed to be illegal from the date on which the workmen had been laid-off and the workmen shall be entitled to all the benefits under any law for the time being in force as if they had not been laid-off.

(9) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the

establishment or death of the employer or the like, it is necessary so to do, by order, direct that the provisions of sub-section (1), or, as the case may be, sub-section (3) shall not apply in relation to such establishment for such period as may be specified in the order.]

(10) The provisions of section 25C (other than the second proviso thereto) shall apply to cases of lay-off referred to in this section.

Explanation.—For the purposes of this section, a workman shall not be deemed to be laid-off by an employer if such employer offers any alternative employment (which in the opinion of the employer does not call for any special skill or previous experience and can be done by the workman) in the same establishment from which he has been laid-off or in any other establishment belonging to the same employer, situate in the same town or village, or situate within such distance from the establishment to which he belongs that the transfer will not involve undue hardship to the workman having regard to the facts and circumstances of his case, provided that the wages which would normally have been paid to the workman are offered for the alternative appointment also.

### **Section 25N in The Industrial Disputes Act, 1947**

#### **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 the 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 persons 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) Where an application for permission has been made under sub-section (1) and the appropriate Government or the specified authority does not communicate the order granting or refusing to grant permission to the employer within a period of sixty days from the date on which such application is made, the permission applied for shall be deemed to have been granted on the expiration of the said period of sixty days.

(5) An order of the appropriate Government or the specified authority granting or refusing to grant permission shall, subject to the provisions of sub-section (6), be final and binding on all the parties concerned and shall remain in force for one year from the date of such order.

(6) The appropriate Government or the specified authority may, either on its own motion or on the application made by the employer or any workman, review its order granting or refusing to grant permission under sub-section (3) or refer the matter or, as the case may be, cause it to be referred, to a Tribunal for adjudication:

Provided that where a reference has been made to a Tribunal under this sub-section, it shall pass an award within a period of thirty days from the date of such reference.

(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) Notwithstanding anything contained in the foregoing provisions of this section, the appropriate Government may, if it is satisfied that owing to such exceptional circumstances as accident in the establishment or death of the employer or the like, it is necessary so to do, by order, direct, that the provisions of sub-section (1) shall not apply in relation to such establishment for such period as may be specified in the order.

(9) Where permission for retrenchment has been granted under sub-section (3) or where permission for retrenchment is deemed to be granted under sub-section (4), every workman who is employed in that establishment immediately before the date of application for permission under this section shall be entitled to receive, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay for every completed year of continuous service or any part thereof in excess of six months.]

## **THE EMPLOYEES' STATE INSURANCE ACT, 1948**

**[ACT NO. 34 OF 1948]**

**[19TH APRIL, 1948]**

An Act to provide for certain benefits to employees in case of sickness, maternity and 'employment injury' and to make provision for certain other matters in relation thereto.

**Section 46. Benefits.** — (1) Subject to the provisions of this Act, the insured persons, [their dependants or the persons hereinafter mentioned, as the case may be,] shall be entitled to the following benefits, namely : —

(a) periodical payments to any insured person in case of his sickness certified by a duly appointed medical practitioner 2[or by any other person possessing such qualifications and experience as the Corporation may, by regulations, specify in this behalf] (hereinafter referred to as sickness benefit) ;

(b) periodical payments to an insured woman in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage, such woman being certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as maternity benefit) ;

(c) periodical payments to an insured person suffering from disablement as a result of an employment injury sustained as an employee under this Act and certified to be eligible for such payments by an authority specified in this behalf by the regulations (hereinafter referred to as disablement benefit) ;

(d) periodical payments to such dependants of an insured person who dies as a result of an employment injury sustained as an employee under this Act, as are entitled to compensation under this Act (hereinafter referred to as dependants' benefit) ;

(e) medical treatment for and attendance on insured persons (hereinafter referred to as medical benefit) ; [and]

(f) payment to the eldest surviving member of the family of an insured person who has died, towards the expenditure on the funeral of the deceased insured person, or, where the insured person did not have a family or was not living with his family at the time of his death, to the person who actually incurs the expenditure on the funeral of the deceased insured person (to be known as [funeral expenses]).

Provided that the amount of such payment shall not exceed [such amount as may be prescribed by the Central Government] and the claim for such payment shall be made within three months of the death of the insured person or within such extended period as the Corporation or any officer or authority authorised by it in this behalf may allow.]

(2) The Corporation may, at the request of the appropriate Government, and subject to such conditions as may be laid down in the regulations, extend the medical benefits to the family of an insured person.

**Section 49. Sickness benefit.** — The qualification of a person to claim sickness benefit, the conditions subject to which such benefit may be given, the rate and period thereof shall be such as may be prescribed by the Central Government.

**Section 50. Maternity Benefit.** — The qualification of an insured woman to claim maternity benefit, the conditions subject to which such benefit may be given, the rates and period thereof shall be such as may be prescribed by the Central Government.]

**Section 51. Disablement benefit.**— Subject to the provisions of this Act —

(a) a person who sustains temporary disablement for not less than three days (excluding the day of accident) shall be entitled to periodical payment 5[at such rates and for such periods and subject to such conditions as may be prescribed by the Central Government] ;

(b) a person who sustains permanent disablement, whether total or partial, shall be entitled to periodical payment 6[at such rates and for such periods

**THE BUILDING AND OTHER CONSTRUCTION  
WORKERS' (REGULATION OF EMPLOYMENT AND  
CONDITIONS OF SERVICE) ACT, 1996**

**Section 60. Power of Central Government to give directions.—**

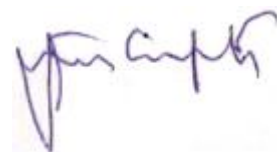
The Central Government may give directions to the Government of any State or to a Board as to the carrying into execution in that State of any of the provisions of this Act.

**INDIAN PENAL CODE 1860**

**Section 188 in The Indian Penal Code—**

**188. Disobedience to order duly promulgated by public servant.**—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or trends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

**TRUE TYPED COPY**



**ADVOCATE**

**ANNEXURE P-1**

**CERTIFICATE OF CHANGE OF NAME**

**In the OFFICE of the REGISTRAR OF COMPANIES UNDER  
THE COMPANIES ACT. 1956.**

**IN THE MATTER OF Instruments and Chemicals Ltd.**

I do hereby certify that pursuant to the provision of section-23 of the Companies Act, 1956 and under order of the Central Government, Conveyed by the Ministry of Finance, Department of Companies Law Administration by their No. Endorsement No. 10(11)-Tech/58

Dated the 17<sup>th</sup> October, 1958

to the address of the Registrar of Companies, Punjab & Himachal Pradesh,

the name of “**Instruments and Chemicals Ltd.**”, has this day been changed to “**Instruments and Chemicals Private Limited**”

and that the said Company has been duly incorporated as a Company under the provision of the said Act.

Dated this 24<sup>th</sup> day of October One Thousand Nine Hundred and Fifty Eight.

Sd/-

Registrar of Companies, Punjab

\*ND\* & Himachal Pradesh

J.S.C.7.

Indian Press, Delhi,-1956-1000 F



**GOVERNMENT OF INDIA**  
**MINISTRY OF CORPORATE AFFAIRS**

**Registrar of Companies, Delhi**

4<sup>th</sup> Floor, IFCI Tower, 61, Nehru Place, New Delhi, Delhi, INDIA,  
110019

Corporate Identity Number: U74899HR1992PLC052941

**SECTION 13(5) OF THE COMPANIES ACT, 2013**

Certificate of Registration of Regional Director order for Change of  
State

M/s FINSYS INFOTECH LIMITED having by special resolution altered the provision of its Memorandum of Association with respect to the place of the Registered Office by changing it from the state of Delhi to the Haryana and such alteration having been confirmed by an order of Alok Samantrai, Northern Region bearing the date 02/06/2014.

I hereby certify that a certified copy of the said order has this day been registered.

Given under my hand at Delhi this First day of August Two Thousand Fourteen.

Sd/-

Afsar Ali

Assistant Registrar of Companies

Registrar of Companies

Delhi

Mailing Address as per record available in Registrar of Companies office:

FINSYS INFOTECH LIMITED

TB-06, CROWN PLAZA, MAIN MATHURA ROAD, SECTOR-15A, Faridabad-121007,

Haryana, INDIA.

(STAMP)

Form 1

Certificate of Incorporation

Number: 05-33955 of 1998-99

I hereby certify that HGI AUTOMOTIVES PRIVATE LIMITED is this day incorporated under the Companies Act, 1956 ( No. 1 of 1956) and that the Company is Limited.

Given under my hand at NEW DELHI this FIRST day of JUNE One Thousand nine hundred and NINTY EIGHT.

SD/-

( E. TIRKEY )

Asstt. Registrar of the Companies

(Stamp)

N.C.T. OF DELHI & HARYANA

**Form 1****Certificate of Incorporation****No. : 55-102963 of 1999-2000**

I hereby certify that .....INFINITY ADVERTISING SERVICES PRIVATE LIMITED..... is this day incorporated under the Companies Act, 1956 ( No. 1 of 1956) and that the company is limited.

Given under my hand at ...New Delhi....this....TWENTY FOURTH...day of .... DECEMBER... One Thousand Nine Hundred and .... Ninety Nine.

Sd/-

( D.K GUPTA)

Dy. Registrar of Companies

(STAMP)

N.C.T. OF DELHI &amp; HARYANA

**Form I.R.****Certificate of Incorporation****No: 55-66848 of 1994-95**

I hereby certify that **JAIRAJ ANCILLARIES PRIVATE LIMITED** is this day incorporated under the Companies Act, 1956 ( No. 1 of 1956) and that the Company is Limited.

Given under my hand at NEW DELHI this TWENTY EIGHT day of MARCH One Thousand nine hundred and NINTY FIVE.

Sd/-

( A.W. ANSARI )

ADDL. Registrar of the Companies

(Stamp)

NCS OF DELHI &amp; HARYANA

Form 1

Certificate of Incorporation

Number: 55-98392 of 1998-99

I hereby certify that KL EXPORT PRIVATE LIMITED

is this day incorporated under the Companies Act, 1956 ( No. 1 of 1956) and that the Company is Limited.

Given under my hand at NEW DELHI this TWELFTH day of FEBRUARY One Thousand nine hundred and NINETY NINE.

Sd/-

( LALIT MOHAN )

Asstt. Registrar of the Companies

(Stamp)

N.C.T. OF DELHI & HARYANA

Form 1

Certificate of Incorporation

No. U25202DL2002PTC116011 2002-2003

I hereby certify that NEUMANN COMPONENTS PRIVATE LIMITED.....

is this day incorporated under the Companies Act, 1956 ( No. 1 of 1956) and that the Company is Limited.

Given under my hand at...NEW DELHI...this....TWENTY EIGHT...day of .....JUNE....TWO THOUSAND AND TWO...

Sd/-

( G.K. GUPTA )

Asst. Registrar of the Companies

(Stamp)

N.C.T. OF DELHI & HARYANA

Form 1

Certificate of Incorporation

Corporate Identity Number: U34300HR2007PTC036534

2007-2008

I hereby certify that **OMP India Private Limited** is this day incorporated under the Companies Act, 1956 ( No. 1 of 1956) and that the Company is Limited.

Given under my hand at Delhi this **ELEVENTH** day of **JANUARY TWO THOUSAND SEVEN**.

Sd/-

( KLAIR ANITA )

Assistant Registrar of the Companies

National Capital Territory of

(Stamp)

Delhi & Haryana

**Company No. 40221**

**Fresh Certificate of Incorporation**

Consequent upon Change of Name

In the Office of the Registrar of Companies, NCT of Delhi and  
Haryana [under the Companies Act, 1956 (1 of 1956)]

In the matter of M/s **P.C.JAIN & SONS PRIVATE LIMITED**

incorporated on Twenty Second May Nineteen Hundred and ninety  
under the Companies Act, 1956 (Act 1 of 1956) under the name

**P.C.JAIN & SONS PRIVATE LIMITED**

having duly passed the necessary resolution in terms of Section 21  
of the Companies Act, 1956 and the approval of the Central  
Government signified in writing having been accorded thereto under  
Section 21 of the Cos. Act, 1956, read with Government of India,  
Department of Company Affairs, New Delhi, Notification No. GSR  
507 (E) dt 24/06/1985, New Delhi vide letter No.  
ROC/Approval/21/55-40221 \_\_\_\_\_ dated 10/06/2004.

the name of the said company is this changed to

**P.C. Jain Textile Private Limited**

and this Certificate is issued pursuant to Section 23(1) of the said  
Act,

Given under my hand at Delhi this Tenth June Two Thousand and  
Four.

Sd/-

(V. N. SHARMA)

DY./ASST. REGISTRAR OF COMPANIES

(Stamp)

N.C.T. OF DELHI AND HARYANA



**GOVERNMENT OF INDIA**  
**MINISTRY OF CORPORATE AFFAIRS**

Registrar of Companies, National Capital Territory of Delhi and  
Haryana

**Fresh Certificate of Incorporation**

Consequent upon Change of Name

Corporate Identity Number : U34103DL2006PTC153391

In the matter of M/s PRANSHU APPARELS PRIVATE LIMITED

I hereby certify that PRANSHU APPARELS PRIVATE LIMITED which was originally incorporated on Ninth day of September Two Thousand Six under the Companies Act, 1956 (No. 1 of 1956) as PRANSHU APPARELS PRIVATE LIMITED having duly passed the necessary resolution in terms of Section 21 of the Companies Act, 1956 and the approval of the Central Government signified in writing having been accorded thereto under Section 21 of the Companies Act, 1956, read with Government of India, Department of Company Affairs, New Delhi, Notification No. G.S.R 507 (E) dated 24/06/1985 vide SRN B05660964 dated 28/02/2011 the name of the said company is this day changed to **VISHWAKARMA AUTO PARTS PRIVATE LIMITED** and this Certificate is issued pursuant to Section 23(1) of the said Act.

Given under my hand at Delhi this Twenty Eighth day of February Two Thousand Eleven.

Sd/-

(MANMOHAN JUNEJA)

Registrar of Companies

National Capital Territory of Delhi and Haryana

Mailing Address as per record available in Registrar of Companies office:

VISHWAKARMA AUTO PARTS PRIVATE LIMITED

26/63 Gali No.11,, Vishwas Nagar, Shahdara,

New Delhi - 110032,

Delhi, INDIA

Form 1

CERTIFICATE OF INCORPORATION

No. 55-100304 of 1999-2000

I hereby certify that VISHWAKARMA AUTOMOTIVE PRIVATE LIMITED

is this day incorporated under the Companies Act, 1956 ( No. 1 of 1956 ) and that the Company is limited.

Given under my hand at NEW DELHI This EIGHTEENTH day of JUNE One thousand nine hundred and Ninety NINE.

Sd/-

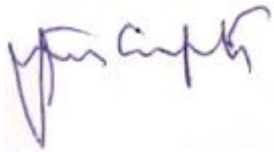
( LALIT MOHAN )

ASSTT. Registrar of Companies

(Stamp)

N.C.T. OF DELHI & HARYANA

TRUE TYPED COPY



ADVOCATE

**ANNEXURE P-2**

HEERALAL SAMARIYA, I.A.S

Secretary to Govt of India

MINISTRY OF LABOUR & EMPLOYMENT

SHRAM SHAKTI BHAWAN

NEW DELHI-110001

Tele: 91-11-23710265

Fax: 91-11-23355679

E-mail: [secy-labour@nic.in](mailto:secy-labour@nic.in)

D.O No. M-11011/08/2020-Media

March 20, 2020

Dear Chief Secretaries,

The world is facing a catastrophic situation due to outbreak of COVID-19 and in order to combat this challenge, coordinated joint efforts of all Sections of the Society is required. In view of the above, there may be incident that employee's/worker's services are dispensed with on this pretext or the employee/worker are forced to go on leave without wage/salaries."

In the backdrop of such challenging situation, all the Employers of Public/Private Establishments may be 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 COVOD-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 acombat their fight with this epidemic. In view of this, you are requested to issue necessary Advisory to the Employers/Owners of all the establishments in the State.

With Regards,

Your Sincerely,

Sd/-

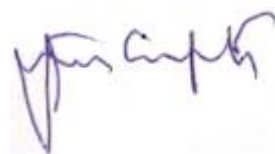
(Heeralal Samariya)

20.03.2020

All Chief Secretaries of States/UTs

(As per list attached)

**TRUE TYPED COPY**



**ADVOCATE**

**ANNEXURE P-3**

No. 40-3/2020-DM-I(A)

Government of India

Ministry of Home Affairs

North Block, New Delhi-110001

Dated 24<sup>th</sup> March, 2020**ORDER**

Whereas, the National Disaster Management Authority (NDMA), is satisfied that the country is threatened with the spread of COVID-19 epidemic, which has already been declared as a pandemic by the World Health Organisation, and has considered it necessary to take effective measures to prevent its spread across the country and that there is a need for consistency in the application and implementation of various measures across the country while ensuring maintenance of essential services and supplies, including health infrastructure;

Whereas in exercise of the power under section 6(2)(i) of the Disaster Management Act, 2005, the National Disaster Management Authority (NDMA), has issued an order no. 1-29/2020-PP (Pt. II) dated 24.03.2020 (Copy enclosed) directing the Ministries/ Departments of Government of India, State/ Union Territory Governments and State/ Union Territory Authorities to take effective measures so as Government to prevent spread of COVID-19 in the country.

Whereas under directions of the aforesaid Order of NDMA, and in exercise of the power, conferred under Section 10(2)(l) of the Disaster Management Act, the undersigned, in his capacity as chairperson, National Executive Committee, hereby issues guidelines, as per the Annexure, to Ministries / Departments of

Government of India, State/ Union Territory Governments and State/ Union Territory Authorities with the directions for their strict implementation. This Order shall remain in force, in all parts of the country for a period of 21 days with effects from 25.03.2020.

Sd/-

24.03.2020

Home Secretary

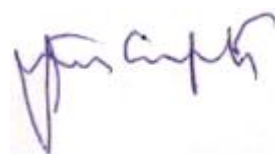
To,

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of State/ Union Territories  
(As per list Attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority

**TRUE TYPED COPY**



**ADVOCATE**

**ANNEXURE P-4**

Ministry of Labour & Employment

**Labour Ministry Issues Advisory to all States/UTs to use Cess fund for Welfare of Construction Workers**

Posted On: 24 MAR 2020 3:32PM by PIB Delhi

In the backdrop of outbreak of COVID-19, numerous measures are being taken by the Government to give relief to workers. To support unorganized construction workers who sustain their livelihood on daily wages, an advisory has been issued today by Shri Santosh Kumar Gangwar, Union Minister of State, I/C, Labour and Employment to all Chief Ministers/ LGs of all the States/UTs. In the advisory, under Section 60 of the Building and Other Construction Workers Act, 1996 all State Governments/UTs have been advised to transfer funds in the account of construction workers through DBT mode from the Cess fund collected by the Labour Welfare Boards under the BOCW cess Act. About Rs 52000 crore is available as cess fund and about 3.5 crore construction workers are registered with these Construction welfare Boards .

\*\*\*\*\*

RCJ/SKP/CKR

(Release ID: 1607911) Visitor Counter : 2663

Read this release in: Marathi , Hindi , Gujarati , Tamil

**TRUE TYPED COPY**



**ADVOCATE**

**ANNEXURE P-5**

No. 40-3/2020-DM-I(A)

Government of India

Ministry of Home Affairs

North Block, New Delhi-110001

Dated 29<sup>th</sup> March, 2020

**ORDER**

Whereas, in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act, the undersigned, in his capacity as Chairperson, National Executive Committee, has issued an Order of even number dated 24.03.2020 followed by Addendum Orders of even number dated 25.03.2020 and 27.03.2020 to the Ministries/ Departments of Governments of India, State/Union Territory Governments and State/Union Territory Authorities with the directions to implement lockdown measures annexed to the said Orders for the containment of spread of COVID-19 in the country.

Whereas, movement of a large number of migrants have taken place in some parts of the country so as to reach their home towns. This is a violation of the lockdown measures on maintaining social distance.

Whereas, to deal with the situation and for effective implementation of the lockdown measures, and to mitigate the economic hardship of the migrant workers, in exercise of the power, conferred under Section 10(2)(l) of the Disaster Management Act, 2005, the undersigned, in the capacity as Chairperson, National Executive Committee hereby directs the State/Union Territory Governments and State/Union Territory Authorities to take necessary action to issue necessary orders to their District Magistrate/ Deputy Commissioner and Senior Superintendent of Police/ Superintendent of Police/ Deputy Commissioner of Police, to take following additional measures:



- i. State/Union Territory Governments shall ensure adequate arrangements of temporary shelters and provision of food etc. for the poor and needy people, including migrants labourers, stranded due to lockdown measures in their respective areas;
- ii. The migrant people, who have moved out to reach their home states/home towns, must be kept in the nearest shelter by the respective State/Union Territory Government quarantine facilities after proper screening for a minimum period of 14 days as per standard health protocol;
- iii. All the employers, be it in the industry or in the shops and commercial establishments, shall make payment of wages of their workers, at their work place, on the due date, without any deduction, for the period their establishments are under closure during the lockdown;
- iv. Where ever the workers, including the migrants, are living in rented accommodation, the landlords of those properties shall not demand payment of rent for a period of one month.
- v. If any landlord is forcing labourers and students to vacate their premises they will be liable for action under the Act.

It is further directed that in case of violation of any of the above measures, the respective State/UT Government, shall take necessary action under the Act. The District Magistrate/Deputy Commissioner and Senior Superintendent of Police/ Superintendent of Police/ Deputy Commissioner of Police will be personally liable for implementation of the above directions and lockdown measures issued under the above mentioned Orders.

Sd/-

29.03.2020

Home Secretary

To

1. The Secretaries of Ministries/Departments of Government of India

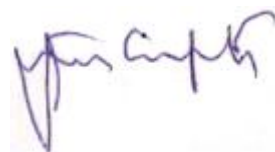
2. The Chief Secretaries/Administrators of States/Union Territories

(As per list attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority.

**TRUE TYPED COPY**



**ADVOCATE**

**ANNEXURE P-6**

Date Bound

Out Today

**Haryana Government  
Chief Secretary Office  
Political & Parliamentary Affairs Department  
No.41/14/2016-5Pol**

Date Chandigarh 29<sup>th</sup> March, 2020.

To,

- 1.All the Administrative Secretaries to Govt. Haryana;
- 2.All the Nodal Officers designated for the Districts;
- 3.All the Divisional Commissioners in the State of Haryana;
- 4.All the Deputy Commissioners in the State of Haryana.

**Through R.A**

**Subject: MHA Order dated 29.03.2020 regarding restriction movement of migrants and strict enforcement of lock down measures COVID-19 epidemic.**

Kindly refer to the subject noted above.

2.A copy of MHA Order bearing No. 40-3/2020-DM-I(A) dated 29.03.2020 regarding restricting movement of migrants and strict enforcement of lock down measures is enclosed herewith for information and necessary action at your end.

Sd/-

Deputy Secretary (Political)

For Chief Secretary to Government, Haryana

Endst. No.41/14/2016-5Pol

Dated Chandigarh 29<sup>th</sup> March, 2020.

A copy of the above is forwarded to the following for information and necessary action;

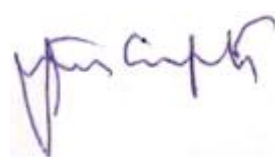
1. Principal Secretary to Chief Minister, Haryana;
2. Additional Principal Secretary to Chief Minister, Haryana;
3. Deputy Principal Secretary to Chief Minister, Haryana;
4. Special Senior Secretary to CM for the information of Hon'ble CM.
5. Special Senior Secretary/ Senior Secretary/ Secretary/ Private Secretary to the Dy. Chief Minister/ Ministers/ State Ministers for kind information of their Ministers.

Sd/-

Deputy Secretary (Political)

For Chief Secretary to Government, Haryana

**TRUE TYPED COPY**



**ADVOCATE**

**ANNEXURE P-7**

RAJAN VERMA, CLS

CHIEF LABOUR COMMISSIONER (C)

Government of India

Ministry of Labour & Employment

Office of the Chief Labour Commissioner (C)

Shram Shakti Bhawan, New Delhi-110001

Tel. No.:011-23710447

E-mail: [clc-mole@nic.in](mailto:clc-mole@nic.in)

D.O No. CLC(C)/Covid-19/ Instructions/LS-I

Dated: 30.03.2020

Dear Regional Heads,

As nation we are facing a catastrophic situation due to the outbreak of COVID-19. In view of the grave situation the secretary (Labour & Employment) vide D.O. No. M-11011/08/2020-Media Dated 20.03.2020 (Copy enclosed) addressed to all employers federations, Chief Secretaries and also to Department of Public Enterprises has advised that all employees/worker may be deemed to be on duty in case place of employment is made non-operational due to out break of COVID-19, it was also advised to all private and public enterprises not to terminate their employees including the casual and contract workers from the job and also not to reduce or deduct their wages for the period if employees take quarantine leave.

In the period of this national crises we all have been getting the distress calls from the employees and workers across the country wherein they are complaining about their hardship due to either loss of employment or non payment of wages. We have also witnessed the large number of fleeing of migrant workers out of panicky which has further added to their miseries. Because of this unfortunate happening Home Secretary, Government of India, New Delhi has issued O.M. No. 40-3/2020-DM-I(A) dated 29<sup>th</sup> March, 2020 (Copy Enclosed) under Disaster Management Act wherein it

has been advised to all state governments/ Union Territories to ensure adequate arrangements of temporary shelter and provision of foods etc. for the poor and needy including migrant workers stranded due to lockdown measures in their respective areas.

In view of the above strong initiatives taken at the Government of India level you are requested to rigorously taken up the issue with all principle employers, contractor and all public/ private enterprises in case distress calls are received from workers/ employees by you in your region.

You are also requested to be in touch constantly with State Government authorities to ascertain the updates about the arrangements of temporary shelters and provision of foods etc. made by them so that the distress workers/ employees and their family members can be guided and placed in the above shelters.

Your regular feedback in the respect of action taken on the above lines will be highly appreciated.

With regards

Your Sincerely

Sd/-

(Rajan Verma)

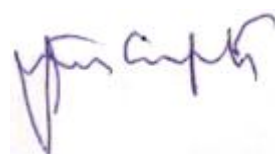
Chief Labour Commissioner (C)

To

All Regional Heads

Dy. CLC(C)/RLC (C)

**TRUE TYPED COPY**



**ADVOCATE**

**ANNEXURE P-8**

Date : 04th April, 2020

To

The Hon. Chief Justice of India.

The Supreme Court of India,

Tilak Marg, New Delhi.

**Sub : ESIC (Employees State Insurance Corporation) be made liable to cover the wages and salaries of insured persons for absence from work period during lockdown/curfew on account of COVID-19 pandemic by treating this pandemic as a disease or a temporary disability.**

Sir

In all humility it is my earnest prayer to your lordship that this prayer be treated as a matter of public interest and welfare and the ESIC through the (Central Govt. And the State Governments) be asked to pay compensatory wages to employees for the absence from work period during the COVID-19 pandemic rather than the employers bearing the full financial brunt.

While by this prayer the supplicant acknowledges and accepts that it is the moral duty of every responsible person employer or otherwise to help and provide food, medicines and essential commodities for all those who do not have access to these basic amenities during this pandemic and that each and every employer known to the supplicant is actively doing his bit to provide relief to those in their vicinity & that this prayer is only to highlight a concern which the supplicant prays in all humility to be heard for merit if any in it.

Your Honour the supplicant begs to present a viewpoint as shared by a no of micro, small and medium size industrial employers known to the supplicant and these are :-

- That the ESIC (Employees State Insurance Corporation) should step in and cover the wages and salaries to be paid by the industrial establishments which have insured their employees with the said Corporation and the pandemic be treated as the equivalent of a disease or a temporary disability and thus compensation under ESIC rules should be paid by the ESIC to the employees.

- That these employees/Insured persons have been from the beginning of the employment have been paying an insurance premium in a percentage not less than 4% of their wages every month, This premium is shared by both the employer and employee in the following manner i.e. 3.25% of wage amount paid by the employer and 0.75% by the employee.

- Industrial units are going to be extremely hard hit financially due to the lockdown and the recession to follow thereafter, it may force a lot of them to close down due to the ensuing financial crisis.

- That the ESI Corporation could easily increase the premium charged on wages share in the future for a period of time which allows it to cover the additional expense it may incur during these trying times.

That the above prayer is humbly made with the utmost respect towards the Honorable Supreme Court of India by the supplicant begging for relief as the Hon.Court may deem fit.



Pradeep Jain

r/o H.No 129, Sector 28A,

Chandigarh 160002

Mobile No : 9991814000

Email address : [p.jain@incoindia.in](mailto:p.jain@incoindia.in)

Pradeep Jain

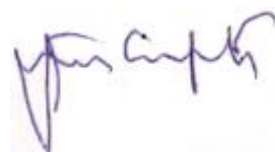
Instruments & Chemicals (P) Ltd.

267-268, Sector 2, HSIIDC, Saha, Haryana

Mobile : 9991814000

Email : [p.jain@incoindia.in](mailto:p.jain@incoindia.in)

**TRUE TYPED COPY**



**ADVOCATE**

ANNEXURE P-9

General Circular No. 15/2020

F.No. CSR-01/4/2020-CSR-MCA

Government of India

Ministry of Corporate Affairs

10<sup>th</sup> April, 2020

**COVID-19 related Frequently Asked Questions (FAQs) on**  
**Corporate Social Responsibility (CSR)**

The Ministry has been receiving several references/ representations from various stakeholders seeking clarification on eligibility of CSR expenditure related to COVID-19 activities. In this regard, a set of FAQs along with clarification are provided below for better understanding of the stakeholders:

SNo	Frequently Asked Questions (FAQs)	Reply
1.	<b>Whether contribution made to ‘PM CARES Fund’ shall qualify as CSR expenditure?</b>	Contribution made to ‘PM CARES Fund’ shall qualify as CSR expenditure under item no. (viii) of Schedule VII of the Companies Act, 2013 and it has been further clarified vide Office memorandum F. No. CSR-05/01/2020-CSR-MCA dated 28 <sup>th</sup> March, 2020.
2.	<b>Whether contribution made to ‘Chief Minister’s Relief Funds’ or ‘State Relief Fund for COVID-19’ shall qualify as CSR expenditure?</b>	‘Chief Minister Relief Fund’ or State Relief Fund for COVID-19’ is not included in schedule VII of the Companies Act, 2013 and therefore any contribution to such funds shall not qualify as admissible CSR expenditure.

3.	<b>Whether contribution made to State Disaster Management Authority shall qualify as CSR expenditure?</b>	Contribution made to State Disaster Management Authority to combat COVID-19 shall qualify as CSR expenditure under item no (xii) of Schedule VII of the 2013 and clarified vide general circular No. 10/2020 dated 23 <sup>rd</sup> March, 2020.
4.	<b>Whether spending of CSR funds for COVID-19 related activities shall qualify as CSR expenditure?</b>	Ministry vide general circular No. 10/2020 dated 23 <sup>rd</sup> March 2020 has clarified that spending CSR funds for COVID-19 related activities <u>shall qualify</u> as CSR expenditure. It is further clarified that funds may be spent for various activities related to COVID-19 under item nos. (i) and (xii) of Schedule VII relating to promotion of health care and sanitation, and disaster management. Further, as per general circular No. 21/2014 dated 18.06.2014, items in Schedule VII are broad based and may be interpreted liberally for this purpose.

5.	<b>Whether payment of salary / wages to employees and workers, including contract labour, during the lockdown period can be adjusted against the CSR expenditure of the companies?</b>	Payment of salary/ wages in normal circumstance is a contractual and statutory obligation of the company. Similarly, payments of salary/wages to employees and workers even during the lockdown period is a moral obligation of the employers, as they have no alternative source of employment or livelihood during this period. Thus, payment of salary/wages to employees and workers during the lockdown period (including imposition of other social distancing requirement) shall not qualify as admissible CSR expenditure.
6.	<b>Whether payment of wages made to casual/daily wage worker during the lockdown period can be adjusted against the CSR expenditure of the companies?</b>	Payment of wages to temporary or casual or daily wage workers during the lockdown period is part of the moral/ humanitarian/ contractual obligations of the company and is <u>applicable to all companies</u> irrespective of whether they have any legal obligation for CSR contribution under section-135 of the Companies Act, 2013. Hence, payment of wages to the temporary or casual or daily wage workers during the lockdown period <u>shall not</u> count towards CSR expenditure.

7.	<b>Whether payment of ex-gratia to temporary/ casual/ daily wage workers shall qualify as CSR expenditure?</b>	If any ex-gratia payment is made to temporary/ casual workers/ daily wage workers over and above the disbursement of wages, specifically for the purpose of fighting COVID-19, the same shall be admissible towards CSR expenditure as a one-time exception provided there is as explicit declaration to that effect by the Board of the company, which is duly certified by the statutory auditor.
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This issues with the approval of competent authority.

Sd/-

(Shobhit Srivastava)

Deputy Director, MCA

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**ADVOCATE**

**ANNEXURE P-10**

No. 40-3/2020-DM-I(A)

Government of India

Ministry of Home Affairs

North Block, New Delhi-110001

Dated 14<sup>th</sup> April, 2020**ORDER**

Whereas under directions of the National Disaster Management Authority (NDMA)'s order dated 24.03.2020, and in exercise of the power, conferred under Section 10(2)(l) of the Disaster Management Act, 2005, the undersigned, in his capacity as chairperson, National Executive Committee, issued directions vide order of the even number 24.03.2020 to all Ministries/ Departments of Government of India, State/ Union Territory Governments and State/ Union Territory Authorities, with the guidelines to implement lockdown measures, to contain the spread of COVID-19, in all parts of the country for the period of 21 days with effect from 25.03.2020;

Whereas, the guidelines to implement lockdown measures were further modified on 25.03.2020, 27.03.2020, 02.04.2020, 03.04.2020 and 10.04.2020 and consolidated guidelines are placed on the website of Ministry of Home Affairs (MHA);

Whereas, NDMA after assessing the situation on COVID-19 epidemic is satisfied that strict social distancing measures need to be implemented for a further period so as to effectively contain the spread of COVID-19 in the country.

Whereas, in exercise of the power under section 6(2)(i) of the Disaster Management Act, 2005, NDMA has issued an Order number 1-137/2018-Mit-II(FTS-10548) dated 14.04.2020 (copy enclosed) directing the Chairperson, National Executive Committee that existing lockdown measures be continued to be implemented in all parts of the country, upto 03.05.2020.

Whereas under directions of the aforesaid Order of NDMA, and in exercise of the power, conferred under Section 10(2)(I) of the Disaster Management Act, 2005, the undersigned, in his capacity as chairperson, National Executive Committee, hereby issues directions to all the all Ministries/ Departments of Government of India, State/ Union Territory Governments and State/ Union Territory Authorities that the Lockdown measures stipulated in aforesaid consolidated Guidelines of MHA for containment of COVID-19 epidemic in the country, will continue to remain in force upto 03.05.2020 to contain the spread of COVID-19 in the country.

Sd/-

14.04.2020

Home Secretary

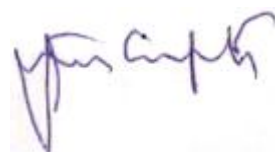
To,

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of State/ Union Territories  
(As per list Attached)

Copy to:

- i. All members of the National Executive Committee.
- ii. Member Secretary, National Disaster Management Authority

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**ADVOCATE**

**ANNEXURE P-11**

The Times of India

**ESIC to pay 70% salary of 4.2 cr beneficiaries**

TNN | Apr 21, 2020, 10.41 AM IST

Nagpur: The government has declared that the Employees' State Insurance Corporation (ESIC) will pay 70% salaries of the workers. This comes after strong lobbying by industries.

However, sources in the ministry of labour say, if implemented, this may exhaust half of ESIC's free reserves.

In a series of representations by industries, including those in the jurisdiction of Union minister of micro, small and medium enterprises (MSMEs) Nitin Gadkari, it was stressed that the government should tap funds lying with it as labour welfare corpus to pay wages for lockdown period.

In the normal course, ESIC provides health care benefits to workers having salaries up to Rs21,000 through its designated hospitals. In case a worker is not able to attend work due to illness, ESIC pays 70% of the salary for the period they are out of work.

A release by the Press Information Bureau (PIB) said that not being able to attend work due to the Covid-19 lockdown would be taken as 'sick period', and 70% salaries will be paid to workers.

Highly placed sources in the organization and the ministry of labour said ESIC has free funds to the tune of Rs60,000 crore. With 4.72 crore employees registered with the corporation, paying one month's salary may lead to an outflow of anywhere between Rs30,000 crore to Rs35,000 crore.

ESIC's Nagpur office too has 3.5 lakh workers registered.

ESIC has another Rs30,000 crore kept as statutory reserves, meant to meet the long-term dues of the corporation. This includes disability benefits for workers and even the pension of ESIC's own employees. This amount cannot be touched.



The decision comes at a time ESIC contribution has been reduced to 4% from July 2019 as against 6.5% earlier. This has reduced the inflows to ESIC by nearly 35%, said a source.

The move may leave ESIC in deep crisis, with the changes making it another BSNL or MTNL, said an official.

Meanwhile, so far, except the PIB release, no notification for the payout has been issued by ESIC. As per procedure, there cannot be any direct remittance to the accounts. The members may have to apply for a claim. Even that can begin only once a formal order is issued.

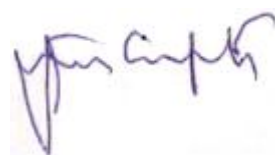
A source said ESIC also does not have the bank accounts of all its members. The accounts of only those who have been paid claims at any point of time are with the organization. These would account for around 30% of the total beneficiaries. It may not be possible to even get the bank details of the rest due to the lockdown.

Meanwhile, a section of industrialists said many of them are in a position to pay their workers for some days, but are yet depending on government assistance.

(Source:

<https://timesofindia.indiatimes.com/city/nagpur/esic-to-pay-70-salary-of-4-2-cr-beneficiaries/articleshowprint/75286209.cms>)

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**ADVOCATE**

ANNEXURE P-12

The Economic Times

**Industries cannot be forced to pay wages during lockdown:**

**Chief of parliamentary panel on labour**

BY PTI | APR 24, 2020, 05.27 PM IST

Industries cannot be forced to pay wages to their employees during the coronavirus-induced lockdown, BJD MP Bhartruhari Mahtab, who chairs the parliamentary panel on labour, said on Monday.

Amid the countrywide lockdown to check the spread of the novel coronavirus, the parliamentary panel on labour on Thursday submitted its report on the Industrial Relations Code, 2019, to Lok Sabha Speaker Om Birla via online.

In its report, the committee expressed its reservations over payment of compensation to the workers in the event of closure of an establishment due to natural calamity.

"...in case of natural calamities like earthquake, flood, super cyclone, etc. which often result in closure of establishments for a considerably longer period without the employer's fault, payment of wages to the workers until the reestablishment of the industry may be unjustifiable," the report said.

The panel sought clarity in relevant clauses so that employers not responsible for closure or lay off are not "disadvantaged in case of such natural calamity of high intent".

Mahtab said the current lockdown is forced upon industries due to the COVID-19 crisis and, "they can't be forced to pay wages for the lockdown period."

The panel has also recommended that the special provisions in case of lay-off, retrenchment and closure of company, applicable to an industrial establishment having 100 or more workers, should be raised to 300 workers.

“The Committee note that some state governments like Rajasthan have already increased the threshold to 300 workers, which according to the Ministry has resulted in an increase in employment and decrease in retrenchment,” the report said.

The Committee suggested that the threshold limit of employees should be increased in the Industrial Relations Code itself.

(Source:

<https://economictimes.indiatimes.com/news/economy/policy/industries-cannot-be-forced-to-pay-wages-during-lockdown-chief-of-parliamentary-panel-on-labour/printarticle/75351775.cms>)

**TRUE TYPED COPY**



**ADVOCATE**

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

I.A.NO. OF 2020

IN

WRIT PETITION (C) NO. OF 2020

**IN THE MATTER OF:**

FICUS PAX PRIVATE LIMITED ...PETITIONER

## VERSUS

UNION OF INDIA &amp; ORS. ...RESPONDENTS

## AN APPLICATION FOR INTERIM DIRECTIONS

To,

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

The humble petition on behalf of  
the Petitioner above named

**MOST RESPECTFULLY SHOWETH**

1. That the present writ petition under Article 32 of the Constitution of India is being filed by the Petitioner challenging the constitutional validity of the D.O. No.M-11011/08/2020-Media dated 20.03.2020 (“Impugned Advisory”) issued by Secretary (Labour & Employment) and Order No.40-3/2020-DM-I(A) dated 29.03.2020 (“Impugned Order”) passed by Home Secretary, Ministry of Home Affairs, Government of India under Section 10(2)(1) of the Disaster Management Act 2005 ("DMA Act"), together referred to as (“Impugned Notifications”), as being violative of Articles 14 and 19(1)(g) of the Constitution of India

2. That the Petitioner prays that the averments made in the accompanying writ petition may be read as part and parcel of this application. The Petitioners crave leave of this Hon'ble Court to refer and to rely upon the averments made in the writ petition which are not being repeated herein for the sake of brevity.

3. This application is being filed bona fide in the interest of justice. It is further submitted that no prejudice would be caused to any of the respondents if the present application is allowed as the balance of convenience lies solely in favour of the Petitioners. However, if the present application is not allowed, interest of the Petitioners would be severely prejudiced.

4. The Petitioner has not filed any other proceedings either before this Hon'ble Court or any High Court seeking any other reliefs of a similar nature as prayed for vide the present application.

5. The Petitioners have already paid the wages to all workers for the month of March 2020. On one hand, the business of the Petitioners has come to a stand still due to lock down and on the other hand the Petitioners are being compelled under the Impugned Notifications to pay for the wages to workers for entire lockdown period. The Petitioners are being further restrained from reducing their workforce especially the casual or contract or migrant workers.

6. That the Chief Labour Commissioner, Ministry of Labour and Employment vide D.O. No. CLC(C)/Covid-19/ Instructions/LS-I dated 30.03.2020 issued to all Regional heads, requested all regional heads to rigorously take up the issue with all principle employers, contractor and all public/ private enterprises in case distress calls are received from workers/ employees by them in their region. Also, non compliance of Impugned Provisions could even lead to adverse / coercive action against the Petitioners or their promoters.

**P R A Y E R**

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

- i) Pass an interim order staying the operation of D.O. No.M-11011/08/2020-Media dated 20.03.2020 issued by Secretary (Labour & Employment) and Order No.40-3/2020-DM-I(A) dated 29.03.2020 passed by Home Secretary, Ministry of Home Affairs ("Impugned Notifications")
- ii) Pass an interim order directing the Respondents not to initiate any action / proceeding against the Petitioners under Disaster Management Act 2005 or under any other law for non compliance with Impugned Notifications.
- iii) Pass any such other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

AND FOR WHICH ACT OF KINDNESS OF THIS HON'BLE COURT, THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

Drawn & Filed by:



(JEETENDER GUPTA)  
(Advocate for the Petitioner)

AOR # 2713

Drawn on: 23.04.2020

Filed on: 27.04.2020