

**IN THE SUPREME COURT OF INDIA**  
CIVIL ORIGINAL JURISDICTION  
CIVIL WRIT PETITION No.                      OF 2020

IN THE MATTER OF:

Sanisha Thomas & Ors.    ..... Petitioners

Versus

Union of India & Ors.    ..... Respondents





Versus

1. Union of India

Through its Secretary,  
Ministry of Civil Aviation,  
Rajiv Gandhi Bhawan,  
Block B, Safdarjung Airport  
Area, New Delhi-110003

.....Respondent No. 1

2. Ministry of External  
Affairs,  
Through its Secretary  
South Block, Raisina Hill, .....Respondent No. 2  
New Delhi- 110011
3. Ministry of Home Affairs  
Through its Secretary,  
North Block, Raisina Hill,  
New Delhi- 110011 .....Respondent No. 3
4. State of Kerala  
Through its Chief Secretary  
Government Secretariat,  
Thiruvananthapuram -  
695001  
Kerala .....Respondent No. 4

PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF A WRIT IN THE NATURE OF MANDAMUS TO DIRECT THE RESPONDENTS TO RESCUE AND BRING THE PETITIONERS BACK TO INDIA WHO ARE PREGNANT AND STRANDED IN THE KINGDOM OF SAUDI ARABIA IN VULNERABLE CONDITIONS.

TO

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

The humble Petition of the  
Petitioners, above named

**MOST RESPECTFULLY SHOWETH:**

1. That the Petitioners herein are Indian citizens, currently working as Nurses and Doctor in the Kingdom of Saudi Arabia who are in their third trimester of pregnancy and are living in vulnerable condition

proving to be fatal to them as well as the fetuses. The Petitioners are filing the present writ petition under Article 32 of the Constitution of India in extremely urgent circumstances seeking a Writ in the nature of Mandamus from this Hon'ble for issuance of following direction to the Respondents:

- i. To make appropriate arrangement to rescue and bring the Petitioners back to India who are pregnant and stranded in the Kingdom of Saudi Arabia in vulnerable conditions.
- ii. To issue directions to the Embassy of India, Riyadh, Saudi Arabia to take appropriate measure to ensure that the Petitioners have access to proper medical facilities till they are repatriated to India as absence of same would prove fatal to both the Petitioners and fetuses.

2. That the Petitioners have not filed any other Petition on the same subject matter or seeking similar reliefs either in this Hon'ble Court any High Courts except this present Petition.
3. That the Petitioners approached the Respondents through Representations on various dates but there has been no reply for the same from the Respondents. True copy of the Representations filed by the Petitioners herein are marked as **ANNEXURE P-1 (Colly)** and annexed herewith at Page Nos. **32 to 50**.
4. Petitioner No 1 was working as a staff nurse in Al Quriae Banimalik General Hospital, Saudi Arabia since 5 years and her contract with the hospital was completed on 20.04.2020. She is 30 weeks pregnant now and was supposed to return to India on 25.04.2020. But due to the current situation the flight was cancelled and struck in Saudi

Arabia. Since her contract period on 20.04.2020, she has no one to support her in this crucial time.

5. Petitioner No 2 is working as a staff nurse in Saudi Arabia and she is 30 weeks pregnant now. There is no facility available for delivery of a child in which petitioner no 2 is currently working and also there are no family members with her to take care.
6. Petitioner no 3 is currently working as a staff nurse at King Salman Centre for kidney diseases, Riyadh in Saudi Arabia. She is in her 32nd week of pregnancy and expected to deliver her baby on 05.06.2020. She is working in a dialysis centre which doesn't have a gynaecology department. It has also difficult to go for a routine gynaecology appointment and check-up in outside hospital due to curfew and transportation restrictions. There are also no basic facilities available for routine gestational

ultrasound or other check-up to assist faetal growth and monitory.

7. Petitioner no 4 is working as a staff nurse in Saudi Arabia. She is 26 weeks pregnant now. She had booked her ticket for 30.04.2020 to come back to India but the same got cancelled due to current situation. There are no facilities available for her to deliver in the hospital in which she is presently working. It is also submitted that she cannot travel back to India after 36 weeks of her pregnancy.

8. Petitioner no 5 was working as a staff nurse in Durma General Hospital, Riyadh in Saudi Arabia for the past 1 year. Her contract with the hospital ended on 20.03.2020 and planned to travel to India in the 1st week of April. However, the same was cancelled due to the present situation. She is in her 21st week of Pregnancy and she has no one to take care of her. Since the contract with the hospital



is already over, it has become difficult for her to sustain herself at this testing hours.

9. Petitioner no 6 is working as a staff nurse at King Salman Centre for kidney diseases, Riyadh in Saudi Arabia. She is 29 weeks of gestation (twin pregnancy). Her expected date of delivery is on 27.06.2020. She is all alone in Saudi Arabia with no family member to take care of her. She is working in a dialysis centre which doesn't have a gynaecology department. It has also difficult to go for a routine gynaecology appointment and check-up in outside hospital due to curfew and transportation restrictions. There are also no basic facilities available for routine gestational ultrasound or other check-up to assist fetal growth and monitory.
10. Petitioner no 7 is working as staff nurse in a King Saud Hospital, Onizha, Qassil in Saudi Arabia. She is 8 month pregnant now and

staying in a hostel. Her hospital is a Covid-19 back up hospital so admitting more positive cases, because of which the chances of getting infected is high among the staffs. It is also become difficult to get food and other medical facilities at this crucial hour.

11. Petitioner no 8 is working as a staff nurse in King Faisal Specialist Hospital and Research Centre, Riyadh in Saudi Arabia. She complete her contract with the hospital on 26.03.2020 and had booked her ticket to return to India on 01.04.2020 but the same was cancelled due to the lockdown. She is 7 months pregnant now and staying in a hospital now. There is no medical facility available due to lockdown and it has become difficult to find a hospital incase of emergency.
12. Petitioner no 9 was working as a staff nurse in Al Raith General Hospital, Gizan which is very remote and rural area in Saudi Arabia

in yemen border. She had already resigned her job to move back to india., she is 6 months pregnant now. As mentioned earlier she is in a very remote area where there is any hospital with gynaecology department. So it has become difficult for her to get even an ultrasound done. So she is in a very pathetic situation with her health worsening day by day. The nearby department with gynaecology department is around 200 km but the same is admitting only covid 19 patients. So she is undergoing a fearful day staying there which is affecting both her and the feteus health.

13. Petitioner no 10 was working as a staff nurse in KIMC Hospital in Saudi Arabia. She had already submitted her resignation with the hospital on 05.03.2020 due to her pregnancy. She was supposed to leave India on 17.03.2020 but her flight was cancelled. She is 36 weeks pregnant. She is not getting proper

treatment, presently in Saudi Arabia ,as the hospitals near her place or either closed or allowing only Covid19 patients to be admitted. She cannot afford treatment and paying money for food and accommodation as she has already resigned her job.

14. Petitioner No. 11 is working as a Doctor in Saudi Arabia. She is now 26 weeks pregnant. She already had lots of complications during her first pregnancy which still remains (Septate Uterus) due to which the first baby born prematurely in MIMS Hospital, Calicut. To avoid complications, this delivery was also planned in the said Hospital. She was supposed to leave for India on 07.04.2020 but the same was cancelled due to travel ban. There are no facilities available presently at the place where she is residing with no hospital with Gynaecology department. She is also suffering from severe mental stress which could make her condition even worse.

15. Petitioner No. 12 is working as a Staff Nurse in Miqqa General Hospital, Al-Jouf Region, which is a rural region in Saudi Arabia for the past four years. She is 8 months pregnant and had to travel around 50 kms for a check-up and regular ultra sound due which has become difficult now due to the lock down imposed by the Government there. Since she is in a rural place, there are food and water scarcity as well.

16. Petitioner No. 13 is working as a Staff Nurse in King Fahad Hospital, Jeddah in Saudi Arabia. She is 34 weeks pregnant. She is staying in Hostel right now along with her roommates who are nurses doing Corona19 related duty so it has become very difficult from them to take care of her due to the fear of passing infection to her. So she is left all alone. It is also difficult for her to go to a Government run Hospital as they have been converted as Covid19 centres, but at

the same time she cannot also afford a private hospital as they are very costly.

17. Petitioner No. 14 is working as a Staff Nurse in King Fahad Specialist Hospital, Saudi Arabia. She is now 21 weeks pregnant and living alone there and has no one to take care in case of delivery. Hospital management has refused to allow anyone to stay with her at this situation. She is both physically and mentally stressed due to the present situation.

18. Petitioner No. 15 is working as a Staff Nurse in Modern Medical Hospital, Riyadh in Saudi Arabia. She is 30 weeks pregnant. She was supposed to leave for India on 25.03.2020 but she couldn't due to the travel ban. Her Husband there is in visiting visa there currently with her and do not have sufficient financial resource to undertake the delivery in Saudi Arabia.

19. Petitioner No. 16 is working as a Staff Nurse in Al Batha General Hospital, Eastern Province, Dammam, Saudi Arabia. She is 7 months pregnant now and her due date is on 22.07.2020. Since there are no gynaecology department in the Hospitals in her area, she had to travel 500 Kms to get her check up done. But due to the curfew imposed, she isn't getting permission to go outside for check-ups. Unfortunately, the Hospital she is working in has also rejected her leave request due to the Covid19 crisis. So is stuck there without any one to support her in this needy hour.

20. Petitioner No. 17 was working as a Staff Nurse in Maternity and Children's Hospital (MCH), Al-Jouf, Saudi Arabia for last 4 years. She is 7 months pregnant now. She had already resigned from her job on 16.04.2020 and was schedule to leave for India on 23.04.2020 but couldn't come back du to the

travel restrictions. She is left alone with no one to take care of her during this crucial time and post-delivery.

21. Petitioner No. 18 is working as staff nurse at Al Nabhaniyah General Hospital, Al Gassim in Saudi Arabia. She is a in her 7 month of pregnancy and staying alone with no one to take care of her. Her due date for delivery is in first week of June.

22. The Respondent No. 1 is the Union of India, represented by the Ministry of Civil Aviation, which is the nodal Ministry responsible for the formulation of national policies and programmes for development and regulation of Civil Aviation and for devising and implementing schemes for the orderly growth and expansion of civil air transport.

23. The Respondent No. 2 is the Ministry of External Affairs, which is the appropriate



ministry responsible for the conduct of foreign relations of India.

24. The Respondent No. 2 is the Ministry of Home Affairs, Union of India which is the appropriate Ministry responsible for the for the maintenance of internal security and domestic policy.

#### **FACTS**

25. On 31.12.2019, China reported a cluster of cases of pneumonia in Wuhan, Hubei Province. A novel coronavirus was eventually identified.
26. On 11.03.2020, the World Health Organization (WHO) considering the alarming levels of spread and severity, and by the alarming levels of inaction declared COVID-19.
27. On 19.03.2020, The Director General of Civil Aviation vide Circular dt. 19.03.2020, directed that that no scheduled international commercial passenger aircraft shall take off from any foreign airport for any airport in India, after 0001 hrs GMT of March 22, 2020

(\*i.e. 0531 hrs Indian Standard Time (IST) of March 22, 2020) till 0001 hrs GMT of March 29, 2020.

It was also directed therein that no incoming scheduled international commercial passenger aircraft shall be allowed to disembark its passengers \*on Indian soil\* (Foreigner or Indian) after 2001 hrs GMT of March 22, 2020 (\*i.e. 0131hrs IST of March 23, 2020).

28. That on 24.03.2020, the National Disaster Management Authority (NDMA), in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, issued an Order dated 24.03.2020, directing the Ministries/ Departments of Government of India, and the State/Union Territory Governments and State/ Union Territory Authorities to take effective measures to prevent the spread of COVID-19 in the country.

29. On 26.03.2020, the Director General of Civil Aviation vide Circular dt. 26.03.2020,

extended the suspension of scheduled International Commercial passenger flights till 1830 hrs GMT of till 14th April 2020.

30. On 14.4.2020, the Director General of Civil Aviation Civil Aviation vide circular dt. 14.04.2020, further extended the suspension of scheduled International Commercial passenger flights till 1830 hrs GMT of 3rd of May 2020. However, it was clarified in the said circular that the restriction will not apply to international all-cargo operations and flights specifically approved by DGCA.

31. Due to the above circumstances, the Petitioners who are working as Nurses and Doctor in various provinces of the Kingdom of Saudi Arabia herein who are in their final stages of pregnancy are not able to return to India and struggling in Saudi Arabia.

32. It is humbly submitted that the Petitioners herein are in their final stages of pregnancy and are living in vulnerable condition in the

Kingdom of Saudi Arabia where they are not being provided proper treatment and most of them are living all alone with no one to take care of the pregnant Petitioners and also post deliver of the child. True copies of medical reports of some of the Petitioners are marked as **ANNEXURE P-2 (Colly)** and annexed herewith at Page Nos. **51** to **53**.

33. It is also submitted that most of the Government Hospitals in Saudi Arabia has been converted into Covid19 treatment centres and are admitting only those people with the said infection and the Petitioners are also not in a financial position to afford to go to private Hospitals for treatment.

34. In case of some of the Petitioners, they are posted in remote paces of the Saudi Arabia and the nearest Hospital with a Gynaecologist is around 200 Kms and due to the lock down imposed in the country to check the spread of Covid19, they are unable to go for a check up and are

also have no means to take an ultrasound to check the growth of the fetus.

35. It is humbly submitted that some of the Petitioners have already resigned from their jobs to return to India for delivery of the Child, but they are forced to stay back in Saudi Arabia, due to the cancellation of the flights. So without any source of income, it has become difficult for them to afford to pay for their food, essential medicines and other expenses they might incur during delivery of the child.

36. It is humbly submitted that the Petitioners have been running from pillar to pole to get their grievances addressed and repatriated to India in this testing times but have been unsuccessful so far with the authorities concerned being merely evasive with their answers.

37. It is also submitted that there is clearly uncertainty looming as to when the

international commercial aircrafts will be allowed into India. Since the Petitioners are already in their final stage of pregnancy, they may not be able to travel beyond 36<sup>th</sup> week of pregnancy due to health reasons. So, the Petitioners have to be repatriated from Saudi Arabia to India otherwise, not only them but also the unborn has to face difficulties.

38. The Petitioner has no other equally efficacious remedy except to approach this Hon'ble Court by way of present Writ Petition. All annexures annexed to the Writ Petition are true copies of their respective originals.

39. Thus being aggrieved, the Petitioners with leave of this Hon'ble Court are filing the present writ petition under Article 32 of the Constitution of India on inter-alia the following grounds:

#### **GROUND**

A. BECAUSE the Petitioners are in their final stages of pregnancy and are living in highly

vulnerable condition in the Kingdom of Saudi Arabia with no proper medical facility and no one to take care of them.

B.BECAUSE the Respondents have a constitutional duty to protect a mother and her unborn child enshrined in Article 21 of the Constitution of India.

C.BECAUSE it is well settled principle that the States should not discriminate between persons who have taken birth and persons who are still in the wombs of mothers. The State is under an obligation under Article-21 not only to protect the life of unborn child from arbitrary and unjust destruction, but also not to deny it equal protection under Article-14. So the Court have time and again interpreted Article-21 to mean that the word 'person' applies to all human beings including the unborn offsprings at every stage of gestation.

D.BECAUSE in the case of *Paschim Banga Khet Mazdoor Samity & Ors vs State of West Bengal*

& Anr, (1996) 4 SCC 37, it was held by this Hon'ble Court that Article 21 of the Constitution casts an obligation on the State to take every measure to preserve life. The Court found that it is the primary duty of a welfare State to ensure that medical facilities are adequate and available to provide treatment.

E.BECAUSE it is the duty of the State to ensure that the Petitioners who are pregnant and are stuck in Saudi Arabia in vulnerable condition are brought back to India in time and are given proper treatment as it is not only the question of the Petitioners life alone but also the unborn child.

**PRAYER**


In view of the facts and circumstances of the case, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- i) To make appropriate arrangement to rescue and bring the Petitioners back to



India who are pregnant and stranded in the Kingdom of Saudi Arabia in vulnerable conditions.

- ii) To issue directions to the Embassy of India, Riyadh, Saudi Arabia to take appropriate measure to ensure that the Petitioners have access to proper medical facilities till they are repatriated to India as absence of same would prove fatal to both the Petitioners and their fetuses.
- iii) Pass any other suitable order/s as this Hon'ble Court may deem fit and necessary in light of the facts and circumstances of the case and in the interest of justice.

Filed by: 

(Jose Abraham)

Advocate for the Petitioners

Place: New Delhi

Dated: 27.04.2020