

**IN THE HIGH COURT OF DELHI
AT NEW DELHI**

(Criminal Writ Jurisdiction)

Writ Petition (Crl.) No. of 2020

IN THE MATTER OF:

Manoranjan Kumar

...Petitioner

Versus

Delhi Minorities Commission & Anr.

...Respondents

**WRIT PETITION ARTICLE 226 OF THE
CONSTITUTION OF INDIA**

TO

**THE HON'BLE CHIEF JUSTICE AND HIS
COMPANION JUDEGES OF THE HIGH COURT OF DELHI
AT NEW DELHI**

MOST REPECTFULLY SHOWETH:

That this Writ Petition under Article 226 of the Constitution has been filed by the Petitioner against the inflammatory and threatening statements made and published by Respondent No. 1, Dr. Zafarul-Islam

Khan, Chairman of Delhi Minorities Commission, Government of NCT Delhi against the Hindu Community of India on 28.04.2020 by posting a statment on Facebook calling, labelling and referring the Hindu Community as Hindutva Bigots, and threatening the members of Hindu Community of dire consequences. The Respondent No. 1 has intentionally and extremely cleverly with intent of vigilantism and intention to cause a rift between religions at such a sensitive time when the Country is suffering from a Pandemic of Coronavirus.

Brief Facts:

- i. That on 28.04.2020 the Respondent No. 1, by means of a social networking application called Facebook, willfully, with malafide and unlawful intentions published and posted a statement on Facebook calling, labelling and referring the Hindu Community as Hindutva Bigots, and threatening the members of Hindu Community of dire consequences. The actions of Respondent No. 1 have made him liable under Section 153A, 295A and 505(2) of the Indian Penal Code read with Section 95 of the CrPC as it is evident from his actions that he published in the form of visible representations several inflammatory statements to promote enmity between the two groups i.e. Hindu and

Muslim on grounds of religion. A true copy of the Facebook Page of the Respondent No.1 consisting of the inflammatory Facebook post is annexed herewith as **ANNEXURE A-1**.

- ii. That the Respondent has used the medium of social media and networking to propagate hatred amongst the Muslim community against Hindu Community as a whole as the Respondent No. 1 has played a wicked game by not even hinting as to who specifically he referred to as Hindutva Bigots, thus implicating the whole Hindu Community and outraging their character and conduct on volatile social media turf Facebook. Just four days back when hashtag Islamophobia in India was the biggest trend after
- iii. That the Respondent No. 1 has deliberately acted in violation of Article 19(2) of the Constitution of India.

QUESTIONS OF LAW:

1. Is Respondent No.1 in violation of the principles laid down by the judgement of The Hon'ble Supreme Court of India in Kedar Nath vs. State of Bihar?
2. Can the provisions under Article 19(2) of The Constitution of the India be misused by the Respondent No.1 in the name of Freedom of Speech?

3. Is the act of Respondent No.1 of publishing the inflammatory statements by illegally including the Organisation of Islamic Countries (OIC) and creating notion by presenting them as if they are backing the statements of the Respondent No.1 is an act violating and disturbing National Security , International Peace and Fundamental Duties in times of Pandemic?

GROUNDS

1. That in the Judgement of the Hon'ble Supreme Court of India, ***Kedar Nath Vs State of Bihar (1962 AIR 955 SC)***, the Hon'ble Apex Court has stated that *“Each one of the constituent elements of the offence of making, publishing or circulating statements conducing to public mischief, punishable under S. 505 of the Indian Penal Code, had reference to, and a direct effect on, the security of the State or public order. Hence the provisions of s. 505 were clearly saved by Art.19(2).”*

Having stated the above the, Respondent No. 1 has made himself liable to be punished under Section 505 of the Indian Penal Code, 1860.

2. That the right/freedom of speech cannot be exercised by jeopardizing the public law and order. The Respondent No. 1 has maliciously curved his statement in such a manner that he displays the Muslim society living in pitiful and threatened manner instigating the Muslim Community to develop revengeful instincts thereby cause huge threat to national security and integrity of the country.
3. That Respondent No.1 has created notion has been created that the Muslim minority of Country cannot secure justice from the Courts of Law and the justice system has time and again failed Muslims in the country, thus resorting to idea of vigilantism.
4. The Respondent No. 1 has indirectly invited the members of OIC nations to plot and conspire contingency plans in case they feel to declare war on Hindu Community thus inviting more internationally sponsored terrorism as happened in past in Kashmir and Pakistan.

PRAYER

The petitioner, therefore, prays that in the facts and circumstances of the present case this Hon'ble Court may be pleased to issue writ of mandamus or any other appropriate writ or Direction in the like nature to the Respondent:

1. Issue Notice to Respondent No.1 on his statement and Respondent no. 2 on what actions have been taken in furtherance of this incident within statutory power within Delhi Minorities Commission Act, 1999.
2. Direct Magistrate or Police to lodge FIR against Respondent No.1
3. Forfeit the Facebook Account of the Respondent No.1 in interest of Public Peace and National Security.
4. Take appropriate steps within the statutory power provided within Section 4(4) of Delhi Minorities Commission Act, 1999 which expressly provides as:

“The Government shall remove a person from the post of Chairperson or Member referred to in sub-clause (2) if that person – becomes an un-discharged insolvent;

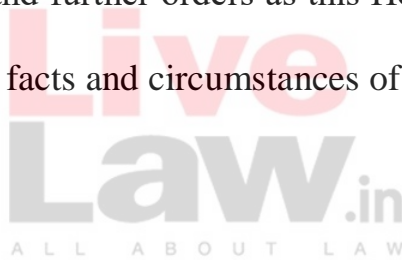
- i. *is convicted and sentenced to imprisonment for an offence which in the opinion of the Central government involves moral turpitude;*
- ii. *become of unsound mind and stands so declared by a competent court;*
- iii. *refuses to act or becomes incapable of acting;*
- iv. *is, without obtaining leave of absence from the Commission, absent from three consecutive meetings of the Commission; or*
- v. *has, in the opinion of the Government of National Capital Territory, so abused the position of Chairperson or Member, as to render that person’s continuance in office detrimental to the interests of Minorities or the public*

interest: Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matters.

- vi. *Any vacancy occurring in the Commission shall be filled as soon as may be by the Government for the un-expired part or the term of the out-going member.*

As it is completely evident by the conduct of the Respondent No.1 that he deliberately misused his position as the Chairperson of the Commission and his continuance in office is detrimental to the interests of Minorities and the public interest.

5. Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.



Through

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1. That I am the Petitioner in this case and as such I am fully acquainted with the facts and circumstances of the cases.

2. I have read the accompanying Criminal Writ Petition and it has explained to me in vernacular, and having understood the contents thereof, in reply to it, I say that the facts stated therein are true and correct to my knowledge.

3. That the Annexure filed with the Criminal Writ Petition is a true copy of their respective original.
4. That the contents of this affidavit are true to my knowledge and belief.

DEPONENT

VERIFIED at Delhi On this 30th April, 2020



DEPONENT