

IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRA ORDINARY CIVIL JURISDICTION
(Under Article 226 of the Constitution of India)
WRIT PETITION (CIVIL) NO. _____ OF 2020
(IN THE MATTER OF A PUBLIC INTEREST LITIGATION)

IN THE MATTER OF:

Subhash Chandra ...Petitioner

-Versus-

Delhi Minorities Commission and Others ...Respondents

CIVIL WRIT PETITION ON BEHALF OF THE PETITIONER UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA SEEKING ISSUANCE OF APPROPRIATE WRIT, ORDER OR DIRECTION TO THE RESPONDENT NOS. 2 AND 3 FOR IMMEDIATE REMOVAL OF THE RESPONDENT NO.4 - ZAFARUL-ISLAM KHAN FROM THE POST OF CHAIRMAN OF THE RESPONDENT NO.1 DELHI MINORITIES COMMISSION, IN TERMS OF SECTION 4(4)(F) OF THE DELHI MINORITIES COMMISSION ACT, 1999

TO,
THE HON'BLE CHIEF JUSTICE OF DELHI HIGH COURT,
AT NEW DELHI, AND HER LORDSHIP'S COMPANION
JUSTICES OF THE SAID HIGH COURT

THE HUMBLE PETITION
OF THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. That the instant Public Interest Litigation (PIL) by way of Writ Petition has been preferred under Article 226 of the Constitution of India, seeking immediate removal of the Respondent No.4 Zafarul-Islam Khan from the post of Chairman of the Respondent No.1 Delhi Minorities Commission, in terms of Section 4 (4)(f) of the Delhi Minorities Commission Act, 1999.

2. That the Petitioner herein is a law abiding and peace loving senior citizen of India of about 66 years of age. The Petitioner was previously working as Senior Manager-HR in the Punjab National Bank (“PNB”) and superannuated in the month of January, 2014. The Petitioner is physically challenged man, with more than 80% disability.
3. That the Respondent No.1 Delhi Minorities Commission was set up under the Delhi Minorities Commission Act, 1999 passed by the Delhi Legislative Assembly on 24.12.99 to safeguard the rights and interests of the Minority communities in the National Capital Territory of Delhi and for matters connected therewith or incidental thereto. The notified Minority Communities, as per the Act, are Muslim, Christian, Sikh, Buddhist and Parsi. The “Jain” Community has also been notified as Minority Community in the NCT of Delhi vide notification order dated 13.10.2008. The Commission comprises a Chairman and two Members from the Minority Communities of Delhi, nominated by the Govt. of NCT of Delhi.
4. That the Respondent No.2 is the Government of NCT of Delhi, which is the overall supervising authority of the Respondent No.1.
5. That the Respondent No.3 is the Lieutenant Governor of the NCT of Delhi, which is the “Government” u/s 2 (d) of the Delhi Minorities Commission Act, 1999.
6. That the Respondent No.4 Zafarul-Islam Khan is the present Chairman of the Respondent No.1 Commission.

7. That the Respondent Nos. 1 to 3 are 'State' within the meaning of Article 12 of the Constitution of India.
8. That the Petitioner has no personal interest in this litigation and that the petition is not guided by self-gain or for gain of any other person/ institution/ body and that there is no motive other than of public interest in filing the instant writ petition.
9. That the source of knowledge of the facts stated in the instant Writ Petition are the Facebook Page of the Respondent No.4, media reports, newspaper articles and news. The Petitioner has also done further inquiries/ investigation on internet to determine the veracity of the same.
10. That the class of persons for whose benefit the instant petition has been filed are the citizens of India whose safety and security have been put at threat due to the seditious act of the Respondent No.4. As the said citizens are too many in number thus it is not possible for them to individually access this Hon'ble Court for the redressal of the grievances elaborated herein. Furthermore, many of such persons also include the poor strata of the society, who are incapable of accessing this Hon'ble Court themselves individually.
11. That the persons/bodies/institutions likely to be affected by the orders sought in the instant writ petition have been impleaded as parties as Respondents and that to the knowledge of the petitioner no other persons/bodies/institutions are likely to be affected by the orders sought in the instant writ petition.

12. That the Petitioner has the means to pay the costs, if any, imposed by this Hon'ble Court and the Petitioner undertakes to pay such costs, if imposed.
13. That since the relief prayed for in the instant petition is of extremely urgent in nature, thus, no representation as such is required to be made in the instant case in the interest of expediency and also to avoid repetition of any similar act by the Respondent No.4. Hence, in the peculiar facts and circumstances of the instant case, the humble Petitioner is craving for the kind leave of this Hon'ble Court to adjudicate upon the instant petition, without requiring the Petitioner to make representation, if any.
14. That the Petitioner has not filed any other Public Interest Litigation (PIL) Petitions previously.
15. That the *factum probandum* of the instant case, leading to filing of the instant writ petition, is being succinctly and lucidly depicted as under:
 - i. That on 8th February, 2000, the Delhi Minorities Commission Act, 1999, was notified as an act to provide for the establishment and functioning of a Minorities Commission to safeguard the rights and interests of the Minority communities in the National Capital Territory of Delhi and for matters connected therewith or incidental there to.

A true copy of the Delhi Minorities Commission Act, 1999, is enclosed herewith and marked as **Annexure P-1**.

- ii. As per Section 3 (2) of the Act, 1999, the Respondent No.1 Commission consists of a Chairperson and Two members nominated by the Government from amongst persons of eminence, ability and integrity belonging to the minority communities of Delhi, who may be full time or part time.
- iii. On 15.07.2017, the Respondent No.4 assumed charge of Chairperson of the Delhi Minorities Commission, for a 3-Year term.
- iv. On 28.04.2020, the Respondent No.4 published a public post through his official page on the social media website www.facebook.com, which reads as under -

"Thank you Kuwait for standing with the Indian Muslims! The Hindutva bigots calculated that given the huge economic stakes involved the Muslim and Arab world will not care about the persecution of Muslims in India.

The bigots forgot that Indian Muslims enjoy huge goodwill in the eyes of the Arab and Muslim world for their services over the centuries to Islamic causes, excellence in Islam and Arabic scholarship, cultural and civilizational gifts to world heritage. Names like Shah Waliullah Dehlavi, Iqbal, Abul Hasan Nadwi, Wahiduddin Khan, Zakir Naik and many others are respected household names in the Arab and Muslim world.

Mind you, bigots, Indian Muslims have opted until now not to complain to the Arabs and Muslim world about your hate campaigns and lynching and riots. The day they are pushed to do that, bigots will face an avalanche.

*Dr. Zafarul-Islam Khan
Chairman, Delhi Minorities Commission
28 April, 2020" (Emphasis supplied)*

A true copy of the seditious and hateful comment/post dated 28.04.2020, published by the Respondent No.4 publicly on the social media website www.facebook.com, is enclosed herewith and marked as **Annexure P-2**.

- v. It is quite axiomatic from the aforesaid public post of the Respondent No.4 that it was provocative, deliberate and seditious, intended to cause disharmony and create a rift in the society. By making such hateful statement, the Respondent No.4, who is holding such a responsible post, has endangered the unity and integrity of the country, tried to tarnish the secular image of India and spread hatred among two communities. The statement of Respondent No.4 is factually incorrect, derogatory and anti-national.
- vi. Even Mr. Ghayorul Hasan Rizvi, Chairman of the National Commission of Minorities termed the aforesaid public post of the Respondent No.4 as divisive in nature and said that strict action should be taken against Respondent No.4 for his aforesaid hateful comments. Mr. Ghayorul Hasan Rizvi further stated that –
- “National minorities Commission condemns the statements made by Zafarul Islam which are divisive in nature. Zafarul Islam should not have forgotten that people of all religions have been living in harmony for centuries and have faced all calamities together.”*
- vii. Subsequently, on 02.05.2020, based on a complaint, the Delhi Police Special Cell has filed an FIR against the Respondent No.4 under Section 124A of the Indian Penal Code (IPC) that lays down the punishment for sedition and Section 153A that call for punishment for promoting feelings of hatred between different groups on the grounds of religion, race, place of birth, residence and language.
- viii. Despite registration of FIR, the Respondent No.4 declared on 03.05.2020 that he still stands by his aforesaid incendiary

comments. He said that it was 'erroneously' reported by sections of the media that he had deleted his tweet containing the crude remarks and deleted it. He said that he stands by his words and convictions.

ix. It is respectfully submitted that by making the aforesaid seditious and derogatory statement, the Respondent No.4 has abused the position of Chairperson in such a manner that his continuance in office is detrimental to the interests of the minorities as well as to the public interest.

x. Hence, the Respondent No.4 is liable to be forthwith removed from the post of Chairperson of the Delhi Minorities Commission in terms of Section 4 (4) (f) of the Delhi Minorities Commission Act, 1999. However, the Respondent Nos.1, 2 and 3 have not taken any action for removal of the Respondent No.4 from the said post.

16.Thus, being extremely aggrieved by the aforesaid inaction of the Respondent Nos. 1, 2 and 3, the humble Petitioner has preferred the instant Writ Petition before this Hon'ble Court in the public interest, inter-alia on the following grounds, amongst other,

GROUND

A. That despite holding a responsible post of Chairman of the Delhi Minorities Commission, the Respondent No.4 has given a direct threat of inciting foreign attack on India, while publicly stating that-

"Mind you, bigots, Indian Muslims have opted until now not to complain to the Arabs and Muslim world about your hate campaigns and lynching and riots. The day they are pushed to do that, bigots will face an avalanche."

- B. That a bare perusal of the aforesaid public statement made by the Respondent No.4 categorically reveals that Respondent No.4 has brought hatred and contempt and has excited disaffection towards the sovereignty of India by instigating the foreign countries to wage war against India.
- C. That the continuation of Respondent No.4 on the aforesaid responsible post, despite registration of Sedition FIR against him, is extremely detrimental to the unity and sovereignty of India. It is further maligning the image of India in the international community.
- D. That a bare perusal of the aforesaid public statement made by the Respondent No.4 further categorically reveals that he has deliberately and intentionally promoted enmity between different groups on the ground of religion and has done acts prejudicial to maintenance of harmony. By using derogatory language against the majority community, the Respondent No.4 has further promoted disharmony, feeling of enmity, hatred and ill-will between two groups, which is likely to disturb the public tranquillity and is further likely to cause fear or alarm or a feeling of insecurity amongst members of different religious groups.
- E. That Section 4 (4) of the Delhi Minorities Commission Act, 1999, reads as under –
- “Section 4 (4) - The Government shall remove a person from the post of Chairperson or Member referred to in sub-clause(2) if that person-*
- (a) becomes an undercharged insolvent;*

(b) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude;

(c) become of unsound mind and stands so declared by a competent court; (d) refuses to act or becomes incapable of acting;

(e) is, without obtaining leave of absences from the Commission, absent from three consecutive meetings of the Commission; or

(f) 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 to that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter." (emphasis supplied)

It is respectfully submitted that by making the aforesaid seditious and derogatory statement, the Respondent No.4 has abused the position of Chairperson in such a manner that his continuance in office is detrimental to the interests of the minorities as well as to the public interest and hence, he is liable to be forthwith removed from the post of Chairperson of the Delhi Minorities Commission in terms of Section 4 (4) (f) of the Delhi Minorities Commission Act, 1999.

F. That the aforesaid statement of the Respondent No.4, who is sitting on a responsible post, is seditious and is deliberately and intentionally intended to cause disharmony and create a rift in the society, by which the Respondent No.4 has endangered the unity and integrity of the country, tried to tarnish the secular image of India and spread hatred among two communities.

- G. That even Mr. Ghayorul Hasan Rizvi, Chairman of the National Commission of Minorities termed the aforesaid public post of the Respondent No.4 as divisive in nature and said that strict action should be taken against Respondent No.4 for his aforesaid hateful comments.
- H. That even Delhi Police Special Cell has filed an FIR dated 02.05.2020 against the Respondent No.4 under Section 124A and 153A IPC for his aforesaid hateful comment as the Respondent No.4 has promoted feelings of hatred between different groups on the grounds of religion, race, place of birth, residence and language.
- I. That despite registration of FIR, the Respondent No.4 declared on 03.05.2020 that he still stands by his aforesaid incendiary comments. He said that it was 'erroneously' reported by sections of the media that he had deleted his tweet containing the crude remarks and deleted it. He said that he stands by his words and convictions.
- J. That it is respectfully submitted that the right/freedom of speech cannot be exercised by jeopardizing the public law and order. The Respondent No. 4 has maliciously curved his statement in such a manner that he displays a particular community living in pitiful and threatened manner instigating that Community to develop revengeful instincts thereby cause huge threat to national security and integrity of the country. The Respondent No.4 has thus tried

to provoke a particular community to resort to violence against the majority community of India.

K. That the Respondent No. 4 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.

L. That the Respondent No. 4 has intentionally and extremely cleverly with an intention to cause a rift between religions at such a sensitive time when the Country is suffering from a Pandemic of Coronavirus.

M. That the aforesaid seditious statement made by the Respondent No.4, in the unfortunate time of spread of COVID19 and 2 months after the unfortunate Delhi Riots, is extremely sad and is likely to badly damage the public tranquillity.

N. That however, the Respondent Nos. 1, 2 and 3 have not yet removed him from his said post of Chairperson. Non removal of the Respondent No.4 from the said post by the Respondent Nos.1, 2 and 3, is utterly arbitrary and whimsical in nature, warranting kind indulgence of this Hon'ble Court in the interest of justice. Hence, the instant Petition.

17. That the Petitioner has a prima facie strong case on merit and the balance of convenience also lies in his favour. Moreover, enormous irreparable injuries, grave prejudice and patent injustice will be caused

to the Petitioner, if the prayers made herein, are not allowed by this Hon'ble Court.

18. That the Petitioner has no other alternative, efficacious remedy available except to file the present Petition.

19. That the Petitioner states that he has filed no other or similar petition seeking the same or similar relief, as prayed for in the instant petition, before this Hon'ble Court or any other court.

20. **PRAYER:** It is, therefore respectfully prayed, that this Hon'ble Court may graciously be pleased to:

- a) Issue appropriate Writ, Order or Direction to the Respondent Nos. 1, 2 and 3 to forthwith REMOVE the Respondent No.4 Zafarul-Islam Khan from the post of Chairman of the Respondent No.1 Delhi Minorities Commission, in terms of Section 4 (4)(f) of the Delhi Minorities Commission Act, 1999, for his seditious and hateful acts; and/or
- b) Pass any such further order/order(s) as this Hon'ble Court may deem fit and proper in the circumstances of the case.

AND FOR THIS ACT OF KINDNESS THE HUMBLE PETITIONER AS IS DUTY BOUND SHALL EVER PRAY.

Filed By-

**Petitioner
Through**

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**Dated: 05.05.2020
Delhi**