

ADVOCATE'S CHECKLIST (TO BE CERTIFIED BY ADVOCATE ON RECORD)

		Indicate Yes/No
1	SLP(C) has been filed in Form no. 28 with Certificate.	N/A
2	The petition is as per the provisions of Order XV Rule 1.	YES
3	The papers of SLP have been arranged as per Order XXI Rule 3(1)(f).	YES
4	Brief list of dates/events has been filed.	YES
5	Paragraphs and pages of paper book have been consecutively and correctly noted in Index.	YES
6	Proper and required number of paper books (1+1) have been filed.	YES
7	The contents of the petition, applications and accompanying documents are clear, legible and typed in double space on one side of the paper.	YES
8	The particulars of the impugned judgments passed by the court(s) below are uniformly written in all the documents	YES
9	In case of appeal by certificate the appeal is accompanied by judgment and decree appealed from and order granting certificate	N/A
10	If the petition is time barred, application for condonation of delay mentioning the no. of days of delay, with affidavit and court fee has been filed	N/A
11	The Annexures referred to in the petition are true copies of the documents before the court(s) below and are fulfilled in chronological order as per List of Dates	YES
12	The annexures referred to in the petition are filled and indexed separately and not marked collectively.	YES
13	The relevant provisions of the Constitution, statutes, ordinances, rules, regulations, bye-laws, ordersect. Referred to in the impugned judgment / order has been filed as Appendix to the SLP.	YES
14	In SLP against order passed in the second appeal, copies of the orders passed by the trial court and first appellate court have been filed.	N/A
15	The complete listing proforma has been filled in , signed and included in the paper books.	YES
16	In a petition (PIL) filed under Clause (d) of Rule 12(1) Order XXXVIII, the petition has disclosed : (a) His full name, complete postal address, e-mail address, phone number, proof regarding personal identification, occupation and annual income, PAN number and National Unique Identity Card Number, if any ; (b) The facts constituting the cause of action; (c) The nature of injury caused or likely to be caused to the public; (d) The nature of extent of personal interest, if any, of the petitioner(s); (e) Details regarding any civil, criminal or revenue litigation, involving the petitioner or any of the	N/A

petitioners, which has or could have a legal nexus with the issues involved in the Public Interest Litigation

- | | | |
|----|---|--|
| 17 | If any identical matter is pending/disposed off by the Hon'ble Supreme Court, the complete particulars of such matters have been given. | <div style="border: 1px solid black; padding: 2px 10px;">YES</div> |
| 18 | The statement in terms of the Order XIX Rule 3(1) of the Supreme Court Rules 2013 has been given in the statement of appeal. | <div style="border: 1px solid black; padding: 2px 10px;">YES</div> |
| 19 | Whether a Bank Draft of Rs. 50,000/- or 50% of the amount, whichever is less, has been deposited by the person intending to appeal, if required to be paid as per the order of the NCDRC, in terms of section 23 of the Consumer Protection Act 1986. | <div style="border: 1px solid black; padding: 2px 10px;">N/A</div> |
| 20 | In case of Appeals under the Armed Forces Tribunal Act 2007, the petitioner / appellant has moved before the Armed Forces Tribunal for granting certificate for leave to appeal to the Supreme Court. | <div style="border: 1px solid black; padding: 2px 10px;">N/A</div> |
| 21 | All the paper books to be filed after curing the defects shall be in order. | <div style="border: 1px solid black; padding: 2px 10px;">YES</div> |

I hereby declare that I have personally verified the petition and its contents and it is in conformity with the Supreme Court Rules 2013. I certify that the above requirements of the Checklist have been complied with. I further certify that all the documents necessary for the purpose of hearing of the matter have been filed.

Signature : 

KUMAR DUSHYANT SINGH

AOR Code : 2220

Contact No. : 9811433704

New Delhi;

Date : 02/05 /2020

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

WRIT PETITION (CIVIL) NO. OF 2020

[Writ Petition under Article 32 of the Constitution of India]

IN THE MATTER OF: -

Gajendra Sharma

...Petitioner

VERSUS

Union of India & Anr.

...Respondents

WITH

I.A. NO. /2020

AN APPLICATION FOR AD-INTERIM EX-PARTE STAY

PAPER BOOK

(Please see index inside)

ADVOCATE FOR PETITIONER: KUMAR DUSHYANT SINGH

RECORD OF PROCEEDINGS

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4.	Cover pages of Paper Book		A – 3	
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PROFORMA FOR FIRST LISTING

Section: X

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

- ☐ Central Act : (Title) Constitution of India
- ☐ Section: Article 32
- ☐ Central Rule : (Title) :
- ☐ Rule No.(s)
- ☐ State Act :
- ☐ Section : 25
- ☐ State Rule : (Title)
- ☐ Rule No.(s) :
- ☐ Impugned Interim Order : (Date) **NA**
- ☐ Impugned **Final Order**/Decree : (Date) **NA**
- ☐ High Court : (Name) **NA**
- ☐ Name of Judges : **NA**
- ☐ Tribunal / Authority :

(Name)_____

1. **Nature of matter** : ☒ Civil ☐ Criminal
2. (a) Petitioner/Appellant : Gajendra Sharma
(b) E-mail ID : **NA**
(c) Mobile phone number : **NA**
3. (a) Respondent : Union of India & Anr.
(b) E-mail ID : **NA**
(c) Mobile phone number : **NA**
4. (a) Main category classification : **10**
(b) Sub classification : 1010
5. Not to be listed before : **NA**
- 6.(a) Similar disposed of matter with citation, if any, & case details: **W.P. (C) Diary No.10879/2020**
(b) Similar pending matter with case details: **NO similar matter pending**
7. Criminal Matters : NO
- (a) Whether accused / convict has surrendered : ☐
☐ No. **N/A**

(b) FIR No. **N/A**

(c) Police Station : N/A

(d) Sentence Awarded : N/A

(e) Sentence Undergone : N/A

8. Land Acquisition Matters: NA

(a) Date of Section 4 notification :

(b) Date of Section 6 notification :

(c) Date of Section 17 notification :

9. Tax Matters : State the tax effect : NA

10. Special Category (first petitioner/appellant only): **NA**

☐ Senior Citizen > 65 years ☐ SC/ST ☐ Woman/child
☐ Disabled ☐ Legal ☐ Aid case ☐ In custody

11. Vehicle Number (in case of Motor Accident Claim matters):

NA



[KUMAR DUSHYANT SINGH]

Advocate on Record for the Petitioner

Code: 2220

27, Lawyers Chamber.

Supreme Court of India,

New Delhi 110001

Mob:9811433704

Email: dushyantadv@gmail.com

02.05.2020

SYNOPSIS WITH LIST OF DATES & EVENTS

The Petitioner has preferred the present Writ Petition under the extraordinary circumstances, under Article 32 of the Constitution of India for issuance of an appropriate Writ, Order or Direction in the nature of Mandamus or any other appropriate Writ or Direction declaring a impugned portion of Notification dated 27.03.2020 issued by the Respondent No.2 as ultra vires to the extent it charges interest on the loan amount during the moratorium period, which creates hardship in the present scenario of complete national lockdown being extended from time to time due to covid-19 outbreak.

Though the Respondent No.2 by way of its Notification dated 27.03.2020 has permitted all term Loans to grant a moratorium of 03 months on payments of all instalments falling due between March 1 2020 and May 31, 2020. However, while doing so, the Respondent No.2 has made clear that interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period. This action of imposition of interest during the moratorium period is completely devastating, wrong and in a way has taken away the benefit of imposing moratorium. This has caused hindrance and

obstetrical in “right to life” guaranteed by Article 21 of the Constitution of India, 1950 in furtherance of right to life including right to livelihood which is a pre-requisite to the fundamental right guaranteed under Article 21 to people of India. In the present scenario, when all the means of livelihood has been curtailed by the Government of India by imposition of complete lockdown pan India, due to worldwide outbreak of Covid-19 pandemic and the Petitioner being a citizen of India has no way to continue his work and earn livelihood, imposition of interest during the moratorium will defeat the purpose of permitting moratorium on loans.

That this Hon’ble Court recently dealt with bunch of Writ Petitions relating to the said Notification issued by the Respondent No.2 wherein this Hon’ble Court was of the view that the Petitioners in those Writ Petitions were not affected parties and the said information has been published in daily newspapers. This Hon’ble Court passed an Order dated 30.04.2020 in that bunch of Writ Petitions to that effect and left the questions of law open. It is submitted that the Petitioner herein is an affected party and also a borrower and is directly affected by the impugned Notification dated 27.03.2020 issued by the Respondent No.2.

It is submitted that the Petitioner herein is availing a facility of Home Loan of amount Rs. 37,48,000/- from the ICICI Bank and due to the lockdown and its consequential restrictions imposed by the Government of India, no work can be carried out and thus, Petitioner has no income and is not in a position to pay off his Home Loan EMI.

It is relevant to mention here that the impugned portion of Notification dated 27.03.2020 issued by the Respondent No.2 is arbitrary and capricious to the extend it imposes an over burden upon the borrowers like Petitioner. The interest charged during moratorium period would be added up into the EMIs at the end of three-month forbearance, will raise in the monthly bill or have to pay this additional interest in one go or will be allowed to get it adjusted as an additional EMI. That the additional interest burden for three months moratorium period is also equally divided in all future EMIs, the monthly bill for customer will increase. The aforesaid notification qua payment of interest violates the principal of natural justice as the Government on one hand ceased the working of the individuals and on other hand asking to pay the loan interest during moratorium.

LIST OF DATES AND EVENTS

The Petitioner is a citizen of India, running an Optical Shop as “Prime Opticals” in Agra, Uttar Pradesh with gross total income of about Rs. 6,57,003/-per annum, and residing at 40, Vaibhav Kunj, Dayal BaghAgra(U.P)-282005.

The Petitioner herein has availed a facility of Home Loan of amount Rs. 37,48,000/- from the ICICI Bank.

24.03.2020 In the month of March 2020, due to global outbreak of COVID-19 pandemic, commonly known as “Corona virus outbreak”, India also became a victim of Covid-19 outbreak and the Central Government in order to curb the rapid rise of outbreak within the country, was constrained to announce a national lockdown for 21 days. In this regard, the Hon’ble the Prime Minister of India addressed the nation and announced the said lockdown. The said announcement was given effect by an Order dated 24.03.2020 issued by the National Disaster Management Authority in exercise of the

power under section 6(2)(1) of the National Disaster Management Act 2005.

27.03.2020 Upon the announcement of lockdown, the Respondent No.2 issued a Notification dated 27.03.2020 and permitted all term Loans to grant a moratorium of 03 months on payments of all instalments falling due between March 1st2020 and May 31st, 2020. However, while doing so, the Respondent No.2 has made clear that Interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period. The relevant extract of Notification dated 27.03.2020 reads as under:

“2. In respect of all term loans (including agricultural term loans, retail and crop loans), all commercial banks (including regional rural banks, small finance banks and local area banks), co-operative banks, all-India Financial Institutions, and NBFCs (including housing finance companies) (“lending institutions”) are permitted to grant a moratorium of three months on payment of all instalments¹ falling due between March 1, 2020 and May 31, 2020. The repayment schedule for such loans as also the residual tenor, will be shifted across the board by three months after the moratorium period. Interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period.”

29.03.2020 The Respondent No. 1 in order to bring some more relief workers working across all fields has issued an order dated 29.03.2020 qua the payment of their respective salaries etc. during lockdown. The relevant extract reads as under:

“All 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”.

14.04.2020 The national lockdown was further extended till 03.05.2020 in wake of continuous rise of corona virus infections.

28.04.2020 In these circumstances, the Petitioner requested ICICI Bank for availing the moratorium upon his home loan. The ICICI Bank vide its email dated 28.04.2020 confirmed the application of moratorium of home loan during the lockdown period. However, with the utter shock and surprise Petitioner noted that in the confirmation mail

for availing the facility of moratorium, it is stated that:

“The interest on the outstanding value of your loan shall continue to accrue during the moratorium and the accrued interest will be added to the principal outstanding, and interest thereon shall be calculated on the total amount outstanding under the loan account. This will result in an increase in residual tenure of the loan. If the loan tenure cannot be extended, the EMI amount will increase.”.

30.04.2020 This Hon’ble Court recently dealt with some Writ Petitions relating to the said Notification issued by the Respondent No.2 wherein this Hon’ble Court was of the view that the Petitioners in those Writ Petitions were not affected parties and the same information has been published in daily newspapers. This Hon’ble Court passed an Order dated 30.04.2020 in that bunch of Writ Petitions in W.P. (C) Diary No.10879/2020 to that effect and left the question of law open. It is submitted that the Petitioner herein is an affected party and also a borrower and is directly affected by the impugned Notification

dated 27.03.2020 issued by the Respondent No.2.

01.05.2020 Recently on 02.05.2020, the countrywide lockdown has been further extended for two more weeks.

Hence, the Petitioner will not be in any position to start his work in near time. This has created immense burden upon the Petitioner's budget as apart from paying EMI on home loan, the Petitioner has moral obligation to pay his employees during lockdown and also to manage his financial aspects of his home and family.

02.05.2020 Hence, the present Writ Petition.

IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
WRIT PETITION (C) _____No. OF 2020

[A Writ Petition under Article 32 of the Constitution of India]

IN THE MATTER OF:-

Gajendra Sharma

40, Vaibhav Kunj, Dayal Bagh

Agra (U.P)-282005

...Petitioner

Versus

1. UNION OF INDIA

Through Secretary,
Ministry of Home Affairs
North Block,
New Delhi-110001

2. RESERVE BANK OF INDIA

Through Governor,
6, Sansad Marg,
New Delhi-110001

... Respondents

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

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

**THE HUMBLE PETITION OF
THE PETITIONER HEREIN**

MOST RESPECTFULLY SHOWETH:

1. The Petitioner has preferred the present Writ Petition under the extraordinary circumstances, under Article 32 of the Constitution of India for issuance of an appropriate Writ, Order or Direction in the nature of Mandamus or any other appropriate Writ or Direction declaring a impugned portion of Notification dated 27.03.2020 issued by the Respondent No.2 as ultra vires to the extent it charges interest on the loan amount during the moratorium period, which creates hardship in the present scenario of complete national lockdown being extended from time to time due to covid-19 outbreak.

2. Though the Respondent No.2 by way of its Notification dated 27.03.2020 has permitted all term Loans to grant a moratorium of 03 months on payments of all instalments falling due between March 1 2020 and May 31, 2020. However, while doing so, the Respondent No.2 has made clear that interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period. This action of imposition of interest during the moratorium period is completely devastating, wrong and in a way has taken away the benefit of imposing moratorium. This has caused hindrance and obstetrical in “right to life” guaranteed by Article 21 of

the Constitution of India, 1950 in furtherance of right to life including right to livelihood which is a pre-requisite to the fundamental right guaranteed under Article 21 to people of India. In the present scenario, when all the means of livelihood has been curtailed by the Government of India by imposition of complete lockdown pan India, due to worldwide outbreak of Covid-19 pandemic and the Petitioner being a citizen of India has no way to continue his work and earn livelihood, imposition of interest during the moratorium will defeat the purpose of permitting moratorium on loans.

3. That this Hon'ble Court recently dealt with bunch of Writ Petitions relating to the said Notification issued by the Respondent No.2 wherein this Hon'ble Court was of the view that the Petitioners in those Writ Petitions were not affected parties and the said information has been published in daily newspapers. This Hon'ble Court passed an Order dated 30.04.2020 in that bunch of Writ Petitions to that effect and left the questions of law open. It is submitted that the Petitioner herein is an affected party and also a borrower and is directly affected by the impugned Notification dated 27.03.2020 issued by the Respondent No.2.

4. The brief facts leading to the filing of the present Writ Petition are as follows:-

- (i) The Petitioner is a citizen of India, running an Optical Shop as “Prime Opticals” in Agra, Uttar Pradesh with gross total income of about Rs. 6,57,003/-per annum, and residing at 40, Vaibhav Kunj, Dayal Bagh, Agra(U.P)-282005. The Email Address of the Petitioner is gajsharma19@gmail.com and Mobile No. is +91-9412253740. A true copy of the PAN Card of the Petitioner bearing Pan No. ADMPS4051N is marked and attached herewith as **Annexure-P/1 (Pg.23)**
- (ii) It is submitted the Petitioner has availed a home loan from ICICI Bank and has been paying the respective EMIs without any default.
- (iii) That the Petitioner has not been involved in any other civil or criminal or revenue litigation, which could have legal nexus with the issues involved in the present Petition.
- (iv) The Respondent No. 1 is the Ministry of Home affairs, Union of India, dealing with law and order and has been issuing Notifications/Orders qua the national lockdown and the restrictions have been imposed across the Country in this regard.

- (v) That the Respondent No. 2 Reserve Bank of India and is a statutory body responsible for monitoring, formulation and implementation of the financial policy in India.
- (vi) Hence, both the Respondents are “State” within the meaning of Article 12 of the Constitution and hence amenable to Writ Jurisdiction of this Hon’ble Court.
- (vii) It is submitted that in the month of March 2020, due to global outbreak of COVID-19 pandemic, commonly known as “Corona virus outbreak”, India also became a victim of Covid-19 outbreak and the Central Government in order to curb the rapid rise of outbreak within the country, was constrained to announce a national lockdown for 21 days. In this regard, the Hon’ble the Prime Minister of India addressed the nation and announced the said lockdown. The said announcement was given effect by an Order dated 24.03.2020 issued by the National Disaster Management Authority in exercise of the power under section 6(2)(1) of the National Disaster Management Act 2005. A True Copy of the Order dated 24.03.2020 issued by the National Disaster Management Authority is marked and annexed herewith as **ANNEXURE-P/2.(Pg. 24)**

(viii) Upon the announcement of lockdown, the Respondent No.2 issued a Notification dated ²⁵ 27.03.2020 and permitted all term Loans to grant a moratorium of 03 months on payments of all instalments falling due between March 1st2020 and May 31st, 2020. However, while doing so, the Respondent No.2 has made clear that Interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period. The relevant extract of Notification dated 27.03.2020 reads as under:

“2. In respect of all term loans (including agricultural term loans, retail and crop loans), all commercial banks (including regional rural banks, small finance banks and local area banks), co-operative banks, all-India Financial Institutions, and NBFCs (including housing finance companies) (“lending institutions”) are permitted to grant a moratorium of three months on payment of all instalments¹ falling due between March 1, 2020 and May 31, 2020. The repayment schedule for such loans as also the residual tenor, will be shifted across the board by three months after the moratorium period. Interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period.”

A true copy of the Notification No.RBI/2019-20/186 dated 27.03.2020 issued by the Respondent No.2 is marked and annexed herein as **ANNEXURE-P/3.(Pg. 25-27)**

- (ix) The Respondent No. 1 in order to bring some more relief workers working across all fields has issued an order dated 29.03.2020 qua the payment of their respective salaries etc. during lockdown. The relevant extract reads as under:

“All 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”.

It is submitted that in compliance of the aforesaid order, the Petitioner is paying the salaries to his employees, without any work and income. A true copy of the Order dated 29.03.2020 issued by the Respondent No.1 is marked annexed herewith as **ANNEXURE-P/4.(Pg. 28-29)**

- (x) The national lockdown was further extended till 03.05.2020 in wake of continuous rise of coronavirus infections. A True Copy of the Order dated 14.04.2020 issued by the National Disaster

Management Authority is marked and annexed herewith as **ANNEXURE-P/5.(Pg.30)**

- (xi) It is submitted that the Petitioner herein is availing a facility of Home Loan of amount Rs. 37,48,000/- from the ICICI Bank and due to the lockdown and its consequential restrictions imposed by the Government of India, no work can be carried out and thus, Petitioner has no income and is not in a position to pay off his Home Loan EMI.
- (xii) Therefore, in these circumstances, the Petitioner requested ICICI Bank for availing the moratorium upon his home loan. The ICICI Bank vide its email dated 28.04.2020 confirmed the application of moratorium of home loan during the lockdown period. However, with the utter shock and surprise Petitioner noted that in the confirmation mail for availing the facility of moratorium, it is stated that:
- “The interest on the outstanding value of your loan shall continue to accrue during the moratorium and the accrued interest will be added to the principal outstanding, and interest thereon shall be calculated on the total amount outstanding under the loan account. This will result in an increase in residual tenure of the loan. If the loan tenure cannot be extended, the EMI amount will increase.”.

A true copy of the confirmation email dated 28.04.2020 by ICICI bank is marked and annexed herewith as **ANNEXURE-P/6. (Pg.31)**

(xiii) That this Hon'ble Court recently dealt with some Writ Petitions relating to the said Notification issued by the Respondent No.2 wherein this Hon'ble Court was of the view that the Petitioners in those Writ Petitions were not affected parties and the same information has been published in daily newspapers. This Hon'ble Court passed an Order dated 30.04.2020 in that bunch of Writ Petitions to that effect and left the question of law open. It is submitted that the Petitioner herein is an affected party and also a borrower and is directly affected by the impugned Notification dated 27.03.2020 issued by the Respondent No.2. A true copy of the Order dated 30.04.2020 passed by this Hon'ble Court in W.P. (C) Diary No.10879/2020 is marked and annexed herewith as **ANNEXURE-P/7.(Pg. 32)**

(xiv) Infact, recently on 02.05.2020, the countrywide lockdown has been further extended for two more weeks and therefore, the Petitioner will not be in any position to start his work in near time. This has created immense burden upon the Petitioner's

budget as apart from paying EMI on home loan, the Petitioner has moral obligation to pay his employees during lockdown and also to manage his financial aspects of his home and family. A true copy of the Order dated 01.05.2020 issued by the National Disaster Management Authority is marked and annexed herewith as **ANNEXURE-P/8.(Pg. 33)**

- 5.** Thus, the Petitioner is filing the present Writ Petition before this Hon'ble Court, inter alia, on the following Grounds:

GROUND

- A. **BECAUSE** the impugned portion of Notification dated 27.03.2020 issued by the Respondent No.2 is ultra vires to the extent it charges interest on the loan amount during the moratorium period, which creates hardship in the present scenario of complete national lockdown being extended from time to time due to covid-19 outbreak.
- B. **BECAUSE** while granting the relief of moratorium during the lockdown to borrowers, the action of imposition of interest during the moratorium period is completely devastating, wrong and in a way has taken away the benefit of imposing moratorium. This has caused

hindrance and obstetrical in “right to life” guaranteed by Article 21 of the Constitution of India, 1950 in furtherance of right to life including right to livelihood which is a pre-requisite to the fundamental right guaranteed under Article 21 to people of India.

- C. **BECAUSE** in the present scenario, when all the means of livelihood have been curtailed by the Government of India by imposition of complete lockdown pan India, due to worldwide outbreak of Covid-19 pandemic and the Petitioner being a citizen of India has no way to continue his work and earn livelihood, imposition of interest during the moratorium will defeat the purpose of permitting moratorium on loans.
- D. **BECAUSE** the Petitioner herein is an affected party and also a borrower and is directly affected by the impugned Notification dated 27.03.2020 issued by the Respondent No.2.
- E. **BECAUSE** the Petitioner herein is availing a facility of Home Loan of amount Rs. 37,48,000/- from the ICICI Bank and due to the lockdown and its consequential restrictions imposed by the Government of India, no work can be carried out and thus, Petitioner has no income and is not in a position to pay off his Home Loan EMI.

- F. **BECAUSE** due to continuous extension of countrywide lockdown, the Petitioner will not be in any position to start his work in near time and it has created immense burden upon the Petitioner's budget as apart from paying EMI on home loan, the Petitioner has moral obligation to pay his employees during lockdown and also to manage his financial aspects of his home and family.
- G. **BECAUSE** on 29.03.2020 Ministry of Home Affairs has issued an order to "All 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" and the Petitioner is paying the salaries to his employees, without any work and income.
- H. **BECAUSE** the word 'life' as employed by Article 21 takes in its sweep not only the concept of mere physical existence but also all finer values of life including the right to work and right to livelihood. This right is a fundamental right guaranteed to all persons residing in India, citizens and non-citizens alike, right to life including right to livelihood and work as guaranteed by Article 21 is not reduced to a mere paper platitude but is

kept alive, vibrant and pulsating so that the country can effectively march towards the avowed goal of establishment of an egalitarian society as envisaged by the founding fathers while enacting the Constitution of India along with its Preamble.

- I. **BECAUSE** for the first time since independence, country is in stagnation in the present scenario. Thus, initially except the essential services like electricity, gas, water supply and part of 3B, C and D relating to broadcasting, financial services (banking) and, public administration, defence, etc, all other sectors have been completely shut till 17.05.2020. Though there are some relations, but since Agra is a hotspot area so no relaxation has been given there and till date all the sectors are remained closes, except essential services.

- J. **BECAUSE** the impugned portion of Notification dated 27.03.2020 issued by the Respondent No.2 is arbitrary and capricious to the extend it imposes an over burden upon the borrowers like Petitioner. The interest charged during moratorium period would be added up into the EMIs at the end of three-month forbearance, will raise in the monthly bill or have to pay this additional interest in one go or will be allowed to get it adjusted as an additional EMI. That the additional interest burden for

three months moratorium period is also equally divided in all future EMIs, the monthly bill for customer will increase. The aforesaid notification qua payment of interest violates the principal of natural justice as the Government on one hand ceased the working of the individuals and on other hand asking to pay the loan interest during moratorium.

K. **BECAUSE** this Hon'ble Court while sitting in Constitution Bench in the case of *Olga Tellis v. Bombay Municipal Corpn.*, reported in (1985) 3 SCC 545 in Para. 47 held that: "...justice must not only be done but must manifestly be seen to be done...It is the dialogue with the person likely to be affected by the proposed action which meets the requirement that justice must also be seen to be done."

L. **BECAUSE** the impugned portion of considering the notification dated 27.03.2020 violates the 'Right to Life' provides by the constitution of India. Once the work is stopped by the Government and the source of generating income stopped, then there will be no income. Therefore, it becomes impractical to pay off the EMI's at present. Therefore, every action of the State must be guided by

reason for the public good and not by whim, caprice, and abuse of power.

M. **BECAUSE** considering the fact that the term 'life' as found in Article 21 must necessarily encompass with its fold right to adequate livelihood and work so that the concerned person is not reduced to the shadow of his real self and does not merely remain a breathing skeleton.

N. **BECAUSE** this Hon'ble Court has categorically observed that if there is an obligation upon the State to secure the citizens an adequate means of livelihood and the right to work, it would be sheer pedantry to exclude the right to livelihood from the content of the right to life.

O. **BECAUSE** this Hon'ble Court in the case of Delhi Transport Corporation D.T.C v. Mazdoor Congress and Others Reported in AIR1991SC 101 has held that "The right to life includes right to livelihood, the right to livelihood therefore cannot hang on to the fancies of individuals in authority. The employment is neither a bounty from them nor its survival be at their mercy. Income is the foundation of many fundamental rights and when work is the sole source of income, the right to work becomes as much fundamental. Fundamental

rights can ill-afford to be consigned to the limbo of undefined premises and uncertain applications. That will be a mockery of them. Both the society and the individual employees, therefore, have an anxious interest in service conditions being well defined and explicit to the extent possible.”

P. **BECAUSE** this Hon’ble Court in the case Chameli Singh & Ors. vs. State of U.P. and Anr. Reported in (1996)2 SCC 549 held that this Court had to examine the question whether the term ‘life’ as found in Article 21 would include all the components of right to life. Answering the question in the affirmative the following pertinent observations were made in para 8 of the judgment: “In any organized society, right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object. Right to life guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter....”

Q. **BECAUSE** it must be taken as a settled legal position that Article 21 guarantees to all persons residing in India right to lead dignified life which would include right get

adequate livelihood and work and no procedural law can deprive them of this right unless such a law is enacted by competent legislature and is not violative of any the other fundamental rights especially Article 14 and 19(1)(g) of the Constitution of India.

R. **BECAUSE** Article 21 along with Article 14 and 19, therefore, must be treated as a trinity of rights projecting a golden triangle ensuring a healthy and effective life to all the residents in India including its citizens. These three Articles project an assurance that the promise held forth by the Preamble will be performed by ensuring an egalitarian era within the discipline of fundamental rights.

S. **BECAUSE** the term 'life' as found in Article 21 must necessarily encompass with its fold right to adequate livelihood and work so that the employment is not a bounty from them nor can its survival be at their mercy. Income is the foundation of many fundamental rights and when work is the sole source of income, the right to work becomes as much fundamental in the administration of justice.

T. **BECAUSE** the Preamble of the Indian Constitution ensures Socio, Economic and Political justice, and

provide a strong legal foundation to make the right to employment a reality. The word socialist“ was added in the preamble of the Constitution by the Forty-second Amendment in 1976 incorporating the philosophy of “socialism” aims at elimination of inequality in income and status and standard of life.

U. **BECAUSE** the Constitution of India incorporated the Directive Principles of the State Policy so that the State can initiate positive action in certain directions in order to promote the welfare of the people and achieve amelioration of the socio-economic conditions of the masses. Constitution of India maintains a dichotomy between enforceable rights and unenforceable rights by incorporating fundamental rights and directive principles of the state policy. However, the directive principles of the state policy have to reconcile with the rights available to the citizen under Part III of the Constitution and the obligation of the state to one and all and not to a particular group of citizens.

V. **BECAUSE** Article 41 provides that the State shall within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public, assistance in cases of

unemployment, old age, sickness and disablement, and in other cases of undeserved want. The Article 42 enjoins the State to make “provisions for securing just and humane conditions of work and for maternity relief”. Similarly, Article 43 provides that the State shall endeavour to secure a living wage and a decent standard of life for all workers.

6. Therefore, in these extraordinary circumstances, as stated above, the Petitioner is constrained to approach this Hon’ble Court for enforcement of Fundamental Rights by way of present Writ Petition under Article 32 of the Constitution of India.
7. The Petitioner has no effective or efficacious or alternative remedy under law except by way of the present Writ Petition, more so, in view of the Order dated 30.04.2020 passed by this Hon’ble Court in W.P.(C) diary No.10879/2020 wherein this Hon’ble Court has kept open the question of law qua the impugned Notification issued by Respondent No.2.
8. That the Petitioner has not filed any other Petition or Writ Petition before this Hon’ble Court or before any other

Court of law seeking the relief as prayed in the present Writ Petition.

PRAYER

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

- a) Issue an appropriate Writ, Order or Direction in the nature of mandamus or any other appropriate Writ or Direction declaring the portion of impugned Notification dated 27.03.2020 issued by Respondent No.2 as ultra vires to the extent it charges interest on the loan amount during the moratorium period, which create hardship to the Petitioner being borrower and creates hindrance and obstruction in "right to life" guaranteed by Article 21 of the Constitution of India; and
- b) Issue a Writ, Order or Direction in the nature of Mandamus thereby directing the Respondents to provide relief in repayment of loan by not charging interest during the moratorium period declared by Notification dated 27.03.2020; and/or

- c) Pass any other order or orders which may be deemed fit and proper in the facts and circumstances of the case and in the interest of justice

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

FILED BY:-

DRAWN BY:

[Devesh Chauvia, Advocate]



KUMAR DUSHYANT SINGH

Advocate for the Petitioner

Drafted on: 02.05.2020

Filed on : 02.05.2020

**THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION(C) NO ____ OF 2020**

IN THE MATTER OF: -

Gajendra Sharma

...Petitioner

VERSUS

Union of India & Anr.

...Respondents

AFFIDAVIT

I, Gajendra Sharma, S/o Mr. Komal Prasad Sharma, aged about 54 years, having R/o No.40 Vaibhav Kunj, Dayal Bagh Agra, do hereby solemnly affirm and state as follows:-

1. That I am the Petitioner in the aforesaid matter and I am conversant with the facts and circumstances of the case and I am competent to swear this affidavit.
2. That I have read and understood the contents of the accompanying synopsis & List of dates (Pages B to 1), Writ Petition para 1 to 8, (Pages 1 to 21), and accompanying I.A.s and state that the same are true and correct to the best of my knowledge and belief and nothing material has been concealed therein.
3. That the Annexures annexed to the accompanying Writ Petition are true copies of their respective originals.


DEPONENT

VERIFICATION

Verified at Agra on this 02nd day of May, 2020 that the contents of the above Affidavit are correct and true to the best of my knowledge and belief and no part of it is false and nothing material has been concealed therefrom.


DEPONENT

ANNEXURE -P/1

स्थायी लेखा संख्या

/PERMANENT ACCOUNT NUMBER

ADMPS4051N

नाम /NAME

GAJENDRA SHARMA

पिता का नाम /FATHER'S NAME

KOMAL PRASAD SHARMA

जन्म तिथि /DATE OF BIRTH

20-12-1966

हस्ताक्षर /SIGNATURE

Gajendra Prasad

[Signature]

आयकर आयुक्त, आगरा

COMMISSIONER OF INCOME-TAX, AGRA

[Signature]
TRUE COPY



Government of India
NATIONAL DISASTER MANAGEMENT AUTHORITY
 Policy & Plan Division
 NDMA Bhawan, A-1, Safdarjung Enclave
 New Delhi -110 029



No. 1-29/2020-PP (Pt.II)

Dated : 24th March, 2020

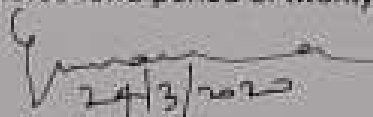
ORDER

Whereas, the National Disaster Management Authority is satisfied that the country is threatened by the spread of COVID-19, which has been declared as a pandemic by the World Health Organisation, and that it is necessary to take effective measures to prevent its spread across the country and for mitigation of the threatening disaster situation;

And whereas, experts, keeping in view the global experiences of countries which have been successful in containing the spread of COVID-19 unlike some others where thousands of people died, have recommended that effective measures for social distancing should be taken to contain the spread of this pandemic;

And whereas, 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;

Now, therefore in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, the National Disaster Management Authority has decided to direct Ministries/ Departments of Government of India, State Governments and State Authorities to take measures for ensuring social distancing so as to prevent the spread of COVID-19 in the country. Necessary guidelines in this regard shall be issued immediately under section 10(2)(i) of the Disaster Management Act, 2005 by the National Executive Committee. These measures shall be in force for a period of twenty one days w. e. f. 25th March, 2020.


 24/3/2020
Member Secretary, NDMA

To

Union Home Secretary,
 North Block, New Delhi-110001



TRUE COPY



भारतीय रिजर्व बैंक
RESERVE BANK OF INDIA
www.rbi.org.in

RBI/2019-20/186

DOR.No.BP.BC.47/21.04.048/2019-20

March 27, 2020

All Commercial Banks (including Small Finance Banks, Local Area Banks and Regional Rural Banks)
All Primary (Urban) Co-operative Banks/State Co-operative Banks/ District Central Co-operative Banks
All All-India Financial Institutions
All Non-Banking Finance Companies (including Housing Finance Companies)

Madam / Dear Sir,

COVID-19 – Regulatory Package

Please refer to the [Statement of Development and Regulatory Policies released on March 27, 2020](#) where inter alia certain regulatory measures were announced to mitigate the burden of debt servicing brought about by disruptions on account of COVID-19 pandemic and to ensure the continuity of viable businesses. In this regard, the detailed instructions are as follows:

(i) Rescheduling of Payments – Term Loans and Working Capital Facilities

2. In respect of all term loans (including agricultural term loans, retail and crop loans), all commercial banks (including regional rural banks, small finance banks and local area banks), co-operative banks, all-India Financial Institutions, and NBFCs (including housing finance companies) (“lending institutions”) are permitted to grant a moratorium of three months on payment of all instalments¹ falling due between March 1, 2020 and May 31, 2020. The repayment schedule for such loans as also the residual tenor, will be shifted across the board by three months after the moratorium period. Interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period.

¹ Instalments will include the following payments falling due from March 1, 2020 to May 31, 2020: (i) principal and/or interest components; (ii) bullet repayments; (iii) Equated Monthly instalments; (iv) credit card dues.

3. In respect of working capital facilities sanctioned in the form of cash credit/overdraft ("CC/OD"), lending institutions are permitted to defer the recovery of interest applied in respect of all such facilities during the period from March 1, 2020 upto May 31, 2020 ("deferment"). The accumulated accrued interest shall be recovered immediately after the completion of this period.

(ii) Easing of Working Capital Financing

4. In respect of working capital facilities sanctioned in the form of CC/OD to borrowers facing stress on account of the economic fallout of the pandemic, lending institutions may recalculate the 'drawing power' by reducing the margins and/or by reassessing the working capital cycle. This relief shall be available in respect of all such changes effected up to May 31, 2020 and shall be contingent on the lending institutions satisfying themselves that the same is necessitated on account of the economic fallout from COVID-19. Further, accounts provided relief under these instructions shall be subject to subsequent supervisory review with regard to their justifiability on account of the economic fallout from COVID-19.

Classification as Special Mention Account (SMA) and Non-Performing Asset (NPA)

5. Since the moratorium/deferment/recalculation of the 'drawing power' is being provided specifically to enable the borrowers to tide over economic fallout from COVID-19, the same will not be treated as concession or change in terms and conditions of loan agreements due to financial difficulty of the borrower under paragraph 2 of the Annex to the Reserve Bank of India (Prudential Framework for Resolution of Stressed Assets) Directions, 2019 dated June 7, 2019 ("Prudential Framework"). Consequently, such a measure, by itself, shall not result in asset classification downgrade.

6. The asset classification of term loans which are granted relief as per paragraph 2 shall be determined on the basis of revised due dates and the revised repayment schedule. Similarly, working capital facilities where relief is provided as per paragraph 3 above, the SMA and the out of order status shall be evaluated considering the

application of accumulated interest immediately after the completion of the deferment period as well as the revised terms, as permitted in terms of paragraph 4 above.

7. The rescheduling of payments, including interest, will not qualify as a default for the purposes of supervisory reporting and reporting to Credit Information Companies (CICs) by the lending institutions. CICs shall ensure that the actions taken by lending institutions pursuant to the above announcements do not adversely impact the credit history of the beneficiaries.

Other Conditions

8. Lending institutions shall frame Board approved policies for providing the above-mentioned reliefs to all eligible borrowers, *inter alia*, including the objective criteria for considering reliefs under paragraph 4 above and disclosed in public domain.

9. Wherever the exposure of a lending institution to a borrower is ₹5 crore or above as on March 1, 2020, the bank shall develop an MIS on the reliefs provided to its borrowers which shall *inter alia* include borrower-wise and credit-facility wise information regarding the nature and amount of relief granted.

10. The instructions in this circular come into force with immediate effect. The Board of Directors and the key management personnel of the lending institutions shall ensure that the above instructions are properly communicated down the line in their respective organisations, and clear instructions are issued to their staff regarding their implementation.

Yours faithfully,

(Saurav Sinha)

Chief General Manager-in-Charge



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No. 40-3/2020-DM-I(A)
Government of India
Ministry of Home Affairs

North Block, New Delhi-110001
Dated 29th March, 2020

ORDER

Whereas, in exercise of the powers, conferred under Section 10(2)(I) 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 Government 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 powers, conferred under Section 10(2)(I) 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 and to issue necessary orders to their District Magistrate/ Deputy Commissioner and Senior Superintendant of Police/ Superintendant 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 migrant 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 places, on the due date, without any deduction, for the period their establishments are under closure during the lockdown;



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- 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 Superintendant of Police/ Superintendant 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.


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 COPY



Government of India
National Disaster Management Authority
“NDMA Bhawan”,
A-1, Safdarjung Enclave, New Delhi-110029.



=====

No.1-137/2018-Mit-II(FTS-10548)

Dated, the 13th April, 2020.
 14th

ORDER

On 24th March, 2020, the National Disaster Management Authority directed the Ministries/Departments of Government of India, State Governments and State Authorities to take measures for ensuring social distancing so as to prevent the spread of COVID 19 in the country. These measures are in force for a period of 21 days w.e.f. from 25th March 2020. Detailed guidelines and addenda were issued by National Executive Committee from time to time under section 10(2)(I) of the Disaster Management Act 2005.

2. Considering the fact that strict social distancing measures need to be implemented for a further period to contain the spread of COVID 19, the National Authority, in exercise of powers under Section 6 (2) (i) of the Disaster Management Act, 2005, directs the Ministries/Departments of Government of India, State Governments and State Authorities to continue the same measures for social distancing upto 3rd May, 2020. In this regard the guidelines/orders issued by NEC shall continue to be applicable throughout the country. The Authority further directs NEC to issue modifications in the guidelines as necessary, keeping in view the need to contain the spread of COVID 19.

14/4/2020

Member Secretary, NDMA

To

Union Home Secretary,
North Block, New Delhi 110011

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Your request regarding EMI moratorium on your loan

1 message

ICICI Bank <services@custcomm.icicibank.com>
Reply-to: ICICI Bank <services@custcomm.icicibank.com>
To: gajsharma19@gmail.com

Tue, Apr 28, 2020 at 20:02



Dear Customer,

Thank you for visiting www.icicibank.com and exercising your choice on moratorium (postponement of EMI) on your loan.

We would like to confirm that for your Home Loan - XX9015, you have chosen a moratorium, and hence you do not need to make any EMI payments, now onwards and until May 31, 2020.

The interest on the outstanding value of your loan shall continue to accrue during the moratorium and the accrued interest will be added to the principal outstanding, and interest thereon shall be calculated on the total amount outstanding under the loan account. This will result in an increase in residual tenure of the loan. If the loan tenure cannot be extended, the EMI amount will increase.

However, anytime during the moratorium period, if you do wish to make any payments for your loan, you may login to www.icicibank.com or use iMobile or visit your nearest loan-servicing branch.

Please note that the moratorium is not applicable on any EMIs/interest that may be overdue on your loan, and you may pay them at your earliest at www.icicibank.com/pay.

Looking forward to your co-operation in helping us serve you better.

Regards,

ICICI Bank

Terms & Conditions apply.

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ITEM Nos.1+2+3

Virtual Court 2

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGSWRIT PETITION (CIVIL)..... Diary No(s).10879/2020

ANISH ROY & ANR.

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

With

WRIT PETITION (CIVIL)..... Diary No(s).10887/2020WRIT PETITION (CIVIL)..... Diary No(s).10932/2020

Date : 30-04-2020 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s) Petitioner-in-person

For Respondent(s) Mr. Tushar Mehta, SG
Mr. B.V. Balaram Das, AORUPON hearing the counsel the Court made the following
O R D E R

The Court is convened through Video Conferencing.

The applications for permission to appear and argue in person are allowed.

We are not inclined to entertain these writ petitions under Article 32 of the Constitution because the petitioners are not the borrowers and are not being affected, in any way, by the Scheme framed by the Reserve Bank of India.

Hence, leaving the question of law open, the writ petitions are dismissed.

Digitally signed by
GEEVA AHUJA
Date: 2020.04.30
15:53:28 +05'30'
Reason:(SATISH KUMAR YADAV)
AR-CUM-PS(RAJ RANI NEGI)
ASSISTANT REGISTRAR

TRUE COPY



Government of India
NATIONAL DISASTER MANAGEMENT AUTHORITY
Policy & Plan Division
NDMA Bhawan, A-1, Safdarjung Enclave
New Delhi -110 029



No. 1-29/2020-PP

Dated : 1st May, 2020.

ORDER

In exercise of the powers under section 6(2)(i) of the Disaster Management Act 2005, on 24th March 2020 and 14th April, 2020 the National Disaster Management Authority directed the Ministries/Departments of Government of India, State/Union Territory (UT) Governments and State/UT Authorities to take measures for ensuring social distancing so as to prevent the spread of COVID 19 in the country. These measures have been in force from 25th March 2020. Detailed guidelines, Orders, clarifications and addenda were issued by National Executive Committee (NEC) from time to time under section 10(2)(1) of the Disaster Management Act 2005.

Considering the fact that firm lockdown measures need to be implemented for a further period in the Country to contain the spread of COVID 19 based on classification of districts into red, orange and green zones, the economic activities can be opened up with some basic safeguards of adhering to physical distancing norms, the National Authority, in exercise of powers under Section 6(2)(i) of the Disaster Management Act 2005, directs the Ministries/Departments of Government of India, State/UT Governments and State/UT Authorities to continue the lockdown measures for two more weeks with effect from 4th May 2020. The Authority further directs NEC to issue modifications in the guidelines as necessary, keeping in view the need to contain the spread of COVID 19, while opening up economic activities.

Member Secretary, NDMA

To

**Union Home Secretary,
North Block, New Delhi - 110001**

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THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

I.A. NO. OF 2020

IN

WRIT PETITION(C) NO ____ OF 2020

IN THE MATTER OF: -

Gajendra Sharma

...Petitioner

VERSUS

Union of India & Anr.

...Respondents

**AN APPLICATION ON BEHALF OF THE
PETITIONER/APPLICANT FOR AD-INTERIM EX-PARTE
STAY**

To

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

The humble Application of the
above named Petitioner/Applicant

MOST RESPECTFULLY SHOWETH:

1. The Petitioner has preferred the accompanying Writ Petition under Article 32 of the Constitution of India for issuance of an appropriate Writ, Order or Direction in the nature of

Mandamus or any other appropriate Writ or Direction declaring a impugned portion of Notification dated 27.03.2020 issued by the Respondent No.2 as ultra vires to the extent it charges interest on the loan amount during the moratorium period, which creates hardship in the present scenario of complete national lockdown being extended from time to time due to covid-19 outbreak.

2. The facts leading up to filing of the present Application have already been set out in the aforesaid Writ Petition and the same are not being repeated herein for the sake of brevity and to avoid unnecessary repetition. The Petitioner has stated in the Petition the facts and circumstances, and the grounds taken in the Petition and craves leave of this Hon'ble Court to refer to and rely on the same at the time of hearing of the present Application.
3. It is submitted that upon the announcement of lockdown on 24.03.2020, the Respondent No.2 issued a Notification dated 27.03.2020 and permitted all term Loans to grant a moratorium of 03 months on payments of all instalments falling due between March 1st2020 and May 31st, 2020.

However, while doing so, the Respondent No.2 has made clear that Interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period. The relevant extract of Notification dated 27.03.2020 reads as under:

“2. In respect of all term loans (including agricultural term loans, retail and crop loans), all commercial banks (including regional rural banks, small finance banks and local area banks), co-operative banks, all-India Financial Institutions, and NBFCs (including housing finance companies) (“lending institutions”) are permitted to grant a moratorium of three months on payment of all instalments¹ falling due between March 1, 2020 and May 31, 2020. The repayment schedule for such loans as also the residual tenor, will be shifted across the board by three months after the moratorium period. Interest shall continue to accrue on the outstanding portion of the term loans during the moratorium period.”

4. It is pertinent to mention here that while granting the relief of moratorium during the lockdown to borrowers, the action of imposition of interest during the moratorium period is completely devastating, wrong and in a way has taken away the benefit of imposing moratorium. This has caused hindrance and obstetrical in “right to life” guaranteed by

Article 21 of the Constitution of India, 1950 in furtherance of right to life including right to livelihood which is a pre-requisite to the fundamental right guaranteed under Article 21 to people of India.

5. It is germane to point out that the impugned portion of Notification dated 27.03.2020 issued by the Respondent No.2 is arbitrary and capricious to the extent it imposes an overburden upon the borrowers like Petitioner. The interest charged during moratorium period would be added up into the EMIs at the end of three-month forbearance, will raise in the monthly bill or have to pay this additional interest in one go or will be allowed to get it adjusted as an additional EMI. That the additional interest burden for three months moratorium period is also equally divided in all future EMIs, the monthly bill for customer will increase. The aforesaid notification qua payment of interest violates the principal of natural justice as the Government on one hand ceased the working of the individuals and on other hand asking to pay the loan interest during moratorium.

6. In the afore-stated circumstances the Petitioner/Applicant herein is constrained to file the present Application. This Hon'ble Court may kindly grant the stay, otherwise the Petitioner shall suffer irreparable loss and injury.
7. It is submitted that the Applicant has a prima facie excellent case on merits and that the balance of convenience lies in favour of the Applicant.
8. It is further submitted that it is in the interest of justice and equity the present Application deserves to be allowed and no prejudice will be caused to anyone including the Respondents.

P R A Y E R

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

- a) Grant ad-interim Ex-parte Stay of impugned portion of Notification dated 27.03.2020 to the extent it charges interest on the loan amount during the moratorium period; and

- b) Pass such other and further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

**AND FOR WHICH ACT OF KINDNESS THE APPLICANT AS
IN DUTY BOUND SHALL EVER PRAY**

FILED BY:-



KUMAR DUSHYANT SINGH

Advocate for the Petitioner/Applicant

Dated: 02.05.2020

IN THE MATTER OF:-

Gajendra Sharma

...Petitioner

VERSUS

Union of India & Anr.

...Respondents

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S. NO.	DESCRIPTION	Court Fees
1.	Listing Proforma	
2.	Synopsis and List of Dates.	
3.	Writ Petition with Affidavit.	
6.	True copies of Annexures P-1 to P-8.	
7.	An Application for Ad Interim Ex-Parte stay.	
10.	Vakalatnama on behalf of the Petitioner.	
11.	Paper Book – 3	
12.	Process	

FILED BY:

Handwritten signature

[KUMAR DUSHYANT SINGH]
Advocate on Record for the Petitioner
27, Lawyers Chamber(Old).
Supreme Court of India,
New Delhi 110001
Code: 2220
Mob:9811433704

02.05.2020

VAKALATNAMA
IN THE SUPREME COURT OF INDIA

Civil Original Jurisdiction
W.P. (C) No..... of 2020

IN THE MATTER OF:

Gajendra Sharma

...Petitioner

VERSUS

Union of India & Anr.

...Respondent

I, Gajendra Sharma, S/o Mr. Komal Prasad Sharma, R/o No.40 Vaibhav Kunj, Dayal Bagh Agra being the **Petitioner** in the above Petition, do hereby appoint and retain

KUMAR DUSHYANT SINGH, Advocate.

To act and appear for me/us in the above Petition/Suit/Appeal/Reference and on my/our behalf to conduct and prosecute or defend the same and all proceedings that may be taken in respect of my application/petition connected with the same or any decree or order passed therein, including proceedings in taxation and applications for review, to file and obtain return of documents and to deposit and receive money on my/our behalf in the said Suit/Appeal/Petition/Reference and applications of Review and to represent me/us and to take all necessary steps on my/our behalf in the above matter. I/We agree to ratify acts done by the aforesaid advocate in pursuance of this authority.

Dated this the 02nd day of May, 2020.

ACCEPTED, CERTIFIED & IDENTIFIED


KUMAR DUSHYANT SINGH
Advocate, Supreme Court


GAJENDRA SHARMA
[PETITIONER]

MEMO OF APPEARANCE


To,
The Registrar,
Supreme Court of India,
New Delhi -110001

Dear Sir,

Please enter my appearance on behalf of the Applicant(s)/Petitioner(s)/Appellant(s)/ Respondent(s) in the above mentioned matter(s).

Dated 02.02.2020

Yours Truly,


KUMAR DUSHYANT SINGH
Advocate, Supreme Court
Code: 2220

The address of service of the said Advocate is as under:-

27, Lawyers Chamber, R.K. Garg Chambers Block,
Tilak Mark, Supreme Court of India, New Delhi - 110001
Mob: 9811433704;