

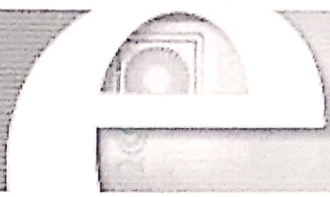
PROFORMA FOR FRESH FILING

- | | |
|---|--|
| 1. Category | Writ PIL |
| 2. Cognizable by | Division Bench |
| 3. District | Prayagraj |
| 4. Petitioner | UP Workers Front |
| 5. Respondent | Union of India
Age.....Gender.....
Contact.....E-mail.....
Vinayak Mithal |
| 6. Petitioner's Advocate Name & Roll No. | |
| 7. Respondent's Advocate Name & Roll No. | |
| 8. Notice No. (if any) | |
| 9. Court Fee Paid | Rs. 100/- |
| 10. No. of Affidavits attached | 1 |
| CRIME DETAILS (if any) | |
| 11. Crime No. & Year | NA |
| 12. Under Section | NA |
| 13. Police Station & Crime District | NA |
| LOWER COURT/HIGH COURT DETAILS (if any) | |
| 14. Lower/High Court Case No. details | NA |
| 15. Lower/High Court Order date | NA |
| 16. Lower/High Court order passed by | NA |
| EXTRA PARTIES & ADVOCATES (add additional sheet if required) | |
| 17. Extra Parties (Petitioner) (Mob./E-mail) | NA |
| 18. Extra Parties (Respondent) (Mob./E-mail) | NA |
| 19. Extra Advocate (Petitioner) (with Roll No.) | Pranjal Shukla |
| 20. Extra Advocate (Respondent) (with Roll No.) | NA |
| ACTS & SECTION (mandatory) | |
| 21. Title of Act involved (Center/State) | Factories Act, 1948 |
| 22. Sections | 5 |
| 23. Title of Rule involved (Center/State) | |
| 24. (i) Vires of Acts/Rules challenged | NA |
| (ii) Particulars of cases involving similes/identical challenge | NA |
| 25. Remarks (if any) | NA |

(VINAYAK MITHAL)
Advocate

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Date of Reporting
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Litigant Name UP WORKERS FRONT
Account Reference VINAYAK MITHAL
Court Fee UIN
Court Fee Amount 120

Print Receipt

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

INDEX

IN

CIVIL MISC. WRIT PETITION (PIL) NO. /2020

(Under Article 226 of the Constitution of India)

(DISTRICT: PRAYAGRAJ)

UP Workers Front

— PETITIONER

VERSUS

Union of India and Anr.

— RESPONDENTS

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(VINAYAK MITHAL)
Advocate

(PRANJAL SHUKLA)
Advocate

Counsel for the Petitioner
Chamber No. 39 High Court Allahabad
Dated : 12.05.2020

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

DATES & EVENTS

IN

CIVIL MISC. WRIT PETITION (PIL) NO. /2020

(Under Article 226 of the Constitution of India)

(DISTRICT: PRAYAGRAJ)

UP Workers Front

— PETITIONER

VERSUS

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DATE	EVENTS
	The Factories Act, 1948 is meant to provide protection to the workers from being exploited by business establishments.
26.10.1976	An explanation of the words 'public emergency' was inserted in Section 5 of the Factories Act, 1976.
26.06.1979	Article 352 of the Constitution of India was amended by the Constitution (Forty Fourth Amendment) Act, 1978 and the words 'internal disturbance' were deleted and in its place the words 'armed rebellion' were introduced.
	However, the explanation of 'public emergency' in Section 5 of the Factories Act, 1948 was not amended.
06.05.2020	The Governor of Uttar Pradesh has promulgated the UP Temporary Exemption from Certain Labour Laws Ordinance, 2020.
08.05.2020	The State Government has now issued Notification No. 13/2020/502/XXXXVI-03-2020-30(Sa.)/2020TC under Section 5 of the Factories Act, 1948.
	The notification is absolutely arbitrary, perverse and illegal which deserves to be quashed by this Court.
	HENCE, THIS WRIT PETITION.

(VINAYAK MITHAL)
Advocate(PRANJAL SHUKLA)
AdvocateCounsel for the Petitioner
Chamber No. 39 High Court Allahabad
Date: 12 : 05 : 2020

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL MISC. WAIVER APPLICATION NO. /2019

(Under Chapter XVIII, Rule 1 of the Rules of the Court, 1952)

ON BEHALF OF PETITIONER

IN

CIVIL MISC. WRIT PETITION (PIL) NO. /2020

(Under Article 226 of the Constitution of India)

(DISTRICT: PRAYAGRAJ)

1. Uttar Pradesh Workers Front

Registered office at: ED 17, Diamond Dairy Colony, Udayganj,

Lucknow

Through its President

—PETITIONER

VERSUS

1. Union of India through Secretary, Ministry of Labour and Employment, Government of India, New Delhi.
2. State of Uttar Pradesh through its Secretary, Labour Department, Government of Uttar Pradesh, Lucknow.

—RESPONDENTS

To,

The Hon'ble the Chief Justice and his other companion Judges of the aforesaid court.

The humble application of the above named applicant, **MOST RESPECTFULLY SHOWETH** as under:-

1. That full facts and circumstances of the case have been given in the accompanying Petition.
2. That in view of the facts and circumstances stated in the accompanying petition, it is expedient in the interest of justice that this Hon'ble Court may graciously be pleased to allow this

application and relax the requirement of filing the petition in hard copy (including swearing of a proper affidavit, original Vakalatnama and signature of the authorized person) subject to the undertaking that the same shall be provided within 15 days from the date on which the lockdown is listed by the appropriate government and/or grant such other relief as the Hon'ble Court may deem fit; else the petitioner shall suffer irreparable loss and injury.

P R A Y E R

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to allow this application and relax the requirement of filing the petition (including swearing of a proper affidavit, original Vakalatnama and signature of the authorized person) subject to the undertaking that the same shall be provided within 15 days from the date on which the lockdown is listed by the appropriate government and/or grant such other relief as the Hon'ble Court may deem fit; else the petitioner shall suffer irreparable loss and injury.

(VINAYAK MITHAL)
Advocate

(PRANJAL SHUKLA)
Advocate

Counsel for the Petitioner
Chamber No. 39 High Court Allahabad
Dated : 12 :05:2020

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

CIVIL MISC. STAY APPLICATION NO. /2020

(Under Chapter XXII Rule 1 of the Rules of Court)

ON BEHALF OF PETITIONER

IN

CIVIL MISC. WRIT PETITION (PIL) NO. /2020

(Under Article 226 of the Constitution of India)

(DISTRICT: PRAYAGRAJ)

1. Uttar Pradesh Workers Front

Registered office at: ED 17, Diamond Dairy Colony, Udayganj,
Lucknow

Through its President

—PETITIONER

VERSUS

3. Union of India through Secretary, Ministry of Labour and
Employment, Government of India, New Delhi.

4. State of Uttar Pradesh through its Secretary, Labour Department,
Government of Uttar Pradesh, Lucknow.

—RESPONDENTS

To,

The Hon'ble Chief Justice and his other companion Judges of the
aforesaid Court.

The humble application of the applicants above named **MOST
RESPECTFULLY SHOWETH** as under:

1. That the full facts and circumstances have been stated in the
accompanying petition which shall form a part of this application.
2. That in view of the facts and circumstances stated in the
accompanying petition, it is expedient in the interest of justice that
during the pendency of this petition, the Hon'ble Court may

graciously be pleased to stay the effect and operation of the Notification No. 13/2020/502/XXXXVI-03-2020-30(Sa.)/2020TC issued by the State Government on 08.05.2020; and/or pass such other and further order or direction which this Hon'ble Court may deem fit and proper in the nature and circumstances of the case, otherwise the petitioner would suffer irreparable loss and injury.

PRAYER

It is, therefore, most respectfully prayed that during the pendency of the petition this Hon'ble Court may be pleased to stay the effect and operation of the Notification No. 13/2020/502/XXXXVI-03-2020-30(Sa.)/2020TC issued by the State Government on 08.05.2020; and/or pass such other and further order or direction which this Hon'ble Court may deem fit and proper in the nature and circumstances of the case, otherwise the petitioner would suffer irreparable loss and injury.

(VINAYAK MITHAL)
Advocate

(PRANJAL SHUKLA)
Advocate

Counsel for the Petitioner
Chamber No. 39 High Court Allahabad
Dated : 12 : 05 : 2020

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

CIVIL MISC. WRIT PETITION (PIL) NO. /2020

(Under Article 226 of the Constitution of India)

(DISTRICT: PRAYAGRAJ)

1. Uttar Pradesh Workers Front
Registered office at: ED 17, Diamond Dairy Colony, Udayganj,
Lucknow
Through its President

—PETITIONER

VERSUS

1. Union of India through Secretary, Ministry of Labour and
Employment, Government of India, New Delhi
2. State of Uttar Pradesh through its Secretary, Labour Department,
Government of Uttar Pradesh, Lucknow.

—RESPONDENTS

To,

The Hon'ble Chief Justice and his other companion Judges of the
aforesaid Court.

The humble petition of the petitioner above named **MOST
RESPECTFULLY SHOWETH** as under:

1. That this is the first petition being filed by the petitioner and no
other petition for the same cause of action has been preferred by
the petitioner before any Court of law.
2. That the petitioner further declares that he has not received any
caveat application from any of the respondents by any means prior
to filing of the present petition.

3. That the petitioner seeks waiver/relaxation from filing of the present petition in hard copy (including swearing of a proper affidavit, original Vakalatnama and signature of the authorized person) subject to the undertaking that the same shall be provided within 15 days from the date on which the lockdown is listed by the appropriate government.
4. That the present petition is being filed against Notification No. 13/2020/502/XXXXVI-03-2020-30(Sa.)/2020TC issued by the Respondent on 08.05.2020 by which the various provisions relating to the weekly hours, daily hours, overtime, intervals for rest, etc. of adult workers under the Factories Act, 1948 have been exempted.
5. That the Petitioner is constrained to approach this Hon'ble Court against the illegal arbitrary and unconstitutional conduct of the respondents who are bent upon violating and ignoring the mandate of the Constitution of India.
6. That the petitioner has based the instant petition in public interest and is not guided by any professional considerations and is being filed purely in public interest as the petitioner.
7. That the petitioner organization has no personal interest in the litigation and the petition is not guided by self gain or of any other person/institutions/body and that there is no motive other than of public interest in filing the writ petition.
8. That the petition if allowed, would benefit the citizens of this country generally as rule of law is essential for democracy and such brazen violation of law by the respondents can be stopped by the orders of this Hon'ble Court only.

9. That the persons affected by such acts of the State are numerous and are not in a position to approach the Hon'ble Court. Hence, the petitioner is filing the present PIL on behalf of such affected persons. Except the present respondents no other parties are affected by the present PIL.
10. That the petitioner has based the instant petition from authentic information and document obtained from various government departments/portal/RTI application and has determined and veracity of the same.
11. That the facts leading to the filing the present petition in brief are that the petitioner is a registered trade union affiliated with Swaraj Abhiyaan, Uttar Pradesh. A true copy of the Registration Certificate is being filed herewith and marked as **ANNEXURE NO. 1** to this petition.
12. That the main objective of the petitioner organization is to pursue the cause of welfare of migrant workers and labour. In the present day scenario, the petitioner organization is providing necessary aid and support to the disadvantageous section of the society and actively pursuing their cause with the Government.
13. That Article 19(1)(c) of the Constitution of India guarantees citizens to form a union or association. The Trade Union Act, 1926 works through this Article of the Constitution. It allows workers to form trade unions.
14. That the Trade Unions provide the power to raise voice against atrocities done to the workers. Unionization brings power to the laborers. Trade Unions discuss various labor-related problems with the employers, they conduct strikes, etc.

15. That the Factories Act, 1948 is meant to provide protection to the workers from being exploited by the greedy business establishment and it also provides for the improvement of working conditions within the factory premises. Hence, a beneficial construction should be given and the provisions of the act should be so constructed\interpreted so as to achieve its object, i.e. the welfare of the worker and their protection from exploitation and unhygienic working conditions in the factory premises.
16. That the provisions of the Factories Act, 1948 are applicable on all factories as defined under Section 2(m) and extends to the whole of India.
17. That Section 5 of the Factories Act, 1948 empowers the State Government to exempt the application of any of the provisions of the Act in any case of public emergency.

5. Power to exempt during public emergency. – In any case of public emergency the State Government may, by notification in the Official Gazette, exempt any factory or class or description of factories from all or any of the provisions of this Act, 5*[except section 67] for such period and subject to such conditions as it may think fit: Provided that no such notification shall be made for a period exceeding three months at a time.

18. That however, the words 'emergency' had not been defined anywhere in the Factories Act, 1948 or any other law for the time being in force. Moreover, there is no independent mechanism provided in the entire Act to ascertain the situation of public emergency.

19. That the Constitution of India was enacted on the 26th of November, 1949 and came into force on 26th January, 1950 in which Emergency Provisions are provided in Part XVIII.
20. That the proclamation of Emergency can be declared by the President of India according to Article 352 of the Constitution of India. The provision as it stood originally is being reproduced as under:
- Proclamation of Emergency 352.** (1) If the President is satisfied that a grave emergency exists whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance, he may, by Proclamation, make a declaration to that effect.
21. That consequently, an explanation of the words 'public emergency' was incorporated in Section 5 of the Factories Act, 1976 with effect from 26.10.1976. The relevant provision is being reproduced hereinbelow:
- Explanation.**--For the purposes of this section "public emergency" means a grave emergency whereby the security of India or of any part of the territory thereof is threatened, whether by war or external aggression or internal disturbance.
22. That it is pertinent to note that the explanation of the words 'public emergency' incorporated in Section of the Factories Act, 1948 on 26.10.1976 is *pari materia* to Article 352 of the Constitution of India.
23. That as a corollary, the procedure to ascertain the situation of public emergency under the Factories Act, 1948 would ordinarily follow the provisions of article 352 of the Constitution of India.

24. That thereafter, Article 352 of the Constitution of India was amended by the Constitution (Forty Fourth Amendment) Act, 1978 and the words 'internal disturbance' were deleted and in its place the words 'armed rebellion' were introduced with effect from 26.06.1979.
25. That however, the explanation of the words 'public emergency' in Section 5 of the Factories Act, 1948 which was borrowed from Article 352 of the Constitution of India was omitted from being amended.
26. That thus, the replacement of the words 'internal disturbance' with the words 'armed rebellion' was not reflected in the explanation to Section 5 of the Factories Act, 1948 which remained unaltered.
27. That as a consequence of the omission, the explanation of the words 'public emergency' in Section 5 of the Factories Act, 1948 has become repugnant to Article 352 to the Constitution of India as 'internal disturbances' will not be a valid ground for proclamation of emergency.
28. That at present, the entire country has been put under a lockdown due to the spread of the COVID 19 disease leading to a complete closure of industries and large scale migration and unemployment of industrial labour.
29. That in exercise of powers conferred under Article 213 of the Constitution of India, the Governor of Uttar Pradesh has promulgated the UP Temporary Exemption from Certain Labour Laws Ordinance, 2020 on 06.05.2020. A true copy of the Ordinance as available on the Internet is being filed herewith and marked as **ANNEXURE NO. 2** to this petition.

30. That by means of the Ordinance, the Uttar Pradesh Cabinet has decided to suspend the operation of 35 of the 38 labour laws in the State of Uttar Pradesh for a period of three years.
31. That the Ordinance has not been published till date since it has been reserved by the Governor for its consideration by the President.
32. That according to Article 254 (2), any Bill relating to a subject in the concurrent list, which may be repugnant to a Union law, needs the assent of the President for its enforcement.
33. That meanwhile, the State Government has now issued Notification No. 13/2020/502/XXXXVI-03-2020-30(Sa.)/2020TC under Section 5 of the Factories Act, 1948 on 08.05.2020. A true copy of the Notification as available on the Internet is being filed herewith and marked as **ANNEXURE NO. 3** to this petition.
34. That the aforesaid notification exempts all factories registered under the Factories Act, 1948 from the various provisions relating to the weekly hours, daily hours, overtime, intervals for rest, etc. of adult workers under Section 51, 54, 55, 56 and 59 of the Act from 20.04.2020 till 19.07.2020.
35. That the reason assigned for the issuance of the aforesaid notification is the 'occurrence of internal disturbance amounting to public emergency in the entire country including the State of Uttar Pradesh'.
36. That Section 5 of the Factories At, 1948 empowers the State Governments to issue such notifications only in any case of 'public emergency' and not otherwise.

37. That thus, the proclamation of public emergency under Article 352 of the Constitution of India is a condition precedent to issuance of any notification by the State Government exempting any factory from the provisions of the Factories Act, 1948.
38. That since no such proclamation of public emergency has been declared under Article 352 of the Constitution of India, the impugned notification could not have been issued by the State Government.
39. That secondly, the words 'internal disturbance' has become repugnant to Article 352 of the Constitution of India. Hence, the impugned notification is unsustainable in the eyes of law.
40. That Part IV of the Constitution of India, which is also known as the "Directive Principles of State Policy" aims to work toward the welfare of its citizens. DPSP cannot be enforced in the court of law, but it provides a guideline to the legislature for making labor laws in India.
- a. Article 39 (a) "The State shall, in particular, direct its policy towards securing; that the citizens, men and women equally, have the right to an adequate means of livelihood." It means that every citizen of the country has the right to earn a livelihood without getting discriminated on the basis of their sex.
 - b. Article 39 (d) - "The State shall, in particular, direct its policy towards securing; that there is equal pay for equal work for both men and women." Wages will not be determined on the basis of sex rather it will be according to the amount of work done by the worker.

- c. Article 41 directs the State to ensure the people within the limit of its economic capacity and development: (a) employment, (b) education, and (c) public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want..
 - d. Article 42 directs the State to make provision for securing just human conditions and for maternity relief. It provides for the upliftment of the working conditions for workers and creating a suitable and humane workplace.
 - e. Article 43 talks about the "living wage" for its citizens. Living wage not only includes the "bare necessities of life" but also the social and cultural upliftment of the person. It also includes education and insurances for a person. The State shall constantly try to create opportunities in the fields of Agriculture and Industries with special reference to cottage industries.
- 41.** That the Directive Principles of State Policy are not enforceable but are nevertheless fundamental in the governance of the country and have to be applied by the State in making the laws. They are essential articles of faith of the country and as such the Legislature, the Executive and the Judiciary have to follow them unless there is likely to be an infringement of any express provision of the constitution. They have to be regarded as the "Wisdom" of the Nation manifested in the "paramount" law of the country.
- 42.** That therefore, the impugned notification issued on 08.05.2020 is absolutely arbitrary, perverse and illegal which deserves to be quashed by this Hon'ble Court.

43. That in view of the facts and circumstances stated above, it is expedient in the interest of justice that this Hon'ble Court may graciously be pleased to allow this application and relax the requirement of filing the petition in hard copy (including swearing of a proper affidavit, original Vakalatnama and signature of the authorized person) subject to the undertaking that the same shall be provided within 15 days from the date on which the lockdown is listed by the appropriate government and/or grant such other relief as the Hon'ble Court may deem fit; else the petitioner shall suffer irreparable loss and injury.
44. That in view of the facts and circumstances stated above, it is expedient in the interest of justice that during the pendency of this petition, the Hon'ble Court may graciously be pleased to stay the effect and operation of the Notification No. 13/2020/502/XXXXVI-03-2020-30(Sa.)/2020TC issued by the State Government on 08.05.2020; and/or pass such other and further order or direction which this Hon'ble Court may deem fit and proper in the nature and circumstances of the case, otherwise the petitioner would suffer irreparable loss and injury.
45. That the petitioner has no other equally, efficacious, effective and speedy alternative remedy except to approach this Hon'ble Court under Article 226 of the Constitution of India.
46. That the petitioner is filing the present petition on the following amongst other grounds:

G R O U N D S

- A.** Because Section 5 of the Factories Act, 1948 empowers the State Government to exempt the application of any of the provisions of the Act in any case of public emergency;

- B. Because an explanation of the words 'public emergency' was incorporated in Section 5 of the Factories Act, 1976 with effect from 26.10.1976.;
- C. Because the explanation of the words 'public emergency' incorporated in Section of the Factories Act, 1948 on 26.10.1976 is *pari materia* to Article 352 of the Constitution of India;
- D. Because the procedure to ascertain the situation of public emergency under the Factories Act, 1948 would ordinarily follow the provisions of article 352 of the Constitution of India;
- E. Because Article 352 of the Constitution of India was amended by the Constitution (Forty Fourth Amendment) Act, 1978 and the words 'internal disturbance' were deleted and in its place the words 'armed rebellion' were introduced with effect from 26.06.1979;
- F. Because the explanation of the words 'public emergency' in Section 5 of the Factories Act, 1948 which was borrowed from Article 352 of the Constitution of India was omitted from being amended;
- G. Because the replacement of the words 'internal disturbance' with the words 'armed rebellion' was not reflected in the explanation to Section 5 of the Factories Act, 1948 which remained unaltered;
- H. Because the explanation of the words 'public emergency' in Section 5 of the Factories Act, 1948 has become repugnant to Article 352 to the Constitution of India as 'internal

disturbances' will not be a valid ground for proclamation of emergency

- I. Because the State Government has now issued Notification No. 13/2020/502/XXXXVI-03-2020-30(Sa.)/2020TC under Section 5 of the Factories Act, 1948 on 08.05.2020 exempts all factories registered under the Factories Act, 1948 from the various provisions of the Act from 20.04.2020 till 19.07.2020;
- J. Because the reason assigned for the issuance of the aforesaid notification is the 'occurrence of internal disturbance amounting to public emergency in the entire country including the State of Uttar Pradesh';
- K. Because no such proclamation of public emergency has been declared under Article 352 of the Constitution of India, the impugned notification could not have been issued by the State Government;
- L. Because the words 'internal disturbance' has become repugnant to Article 352 of the Constitution of India. Hence, the impugned notification is unsustainable in the eyes of law;
- M. Because the impugned notification issued on 08.05.2020 is absolutely arbitrary, perverse and illegal which deserves to be quashed by this Hon'ble Court;

PRAYER

That in the light of the facts stated aforesaid, the Petitioner most respectfully pray before this Hon'ble Court to:

- I. Issue a writ, order or direction of appropriate nature declaring the words 'internal disturbance' in Section 5 of the Factories Act, 1948 as repugnant to Article 352 of the Constitution of India;
- II. Issue a writ, order or direction of appropriate nature quashing the Notification No. 13/2020/502/XXXXVI-03-2020-30(Sa.)/2020TC issued on 08.05.2020;
- III. Issue a writ, order or direction in the nature of which this Hon'ble Court may deem fit in the facts and circumstances of the present case in the best interest of justice, equity and good conscience;
- IV. To allow the petition and award cost in favour of the petitioner and against the respondents.

(VINAYAK MITHAL)
Advocate

(PRANJAL SHUKLA)
Advocate

Counsel for the Petitioner
Chamber No. 39 High Court Allahabad
Date: 12.05.2020

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO. 1

IN

CIVIL MISC. WRIT PETITION (PIL) NO. /2020

(Under Article 226 of the Constitution of India)

(DISTRICT: PRAYAGRAJ)

UP Workers Front

— PETITIONER

VERSUS

Union of India and Anr.

— RESPONDENTS

कार्यालय श्रम आयुक्त उत्तर प्रदेश, जी0टी0 रोड, कानपुर।

विज्ञप्ति

उत्तर प्रदेश औद्योगिक विवाद अधिनियम-1947 सपटित नियमावली-1957 ब्यासशोधित के नियम-40(4) के अन्तर्गत प्रदत्त शक्तियों का प्रयोग करते हुए मैं शालिनी प्रसाद, श्रम आयुक्त, उ0प्र0 एतद्वारा "यू0पी0 वर्कर्स फ्रन्ट" नामक महासंघ, जिसका प्रधान कार्यालय "ई0डी0-17, डायमन्ड डेयरी कालोनी, उदयगंज, लखनऊ" में स्थित है, को मान्यता प्रदान करती हूँ।



(शालिनी प्रसाद)
श्रम आयुक्त, उत्तर प्रदेश।

संख्या- 1467-1516 /टी-2

कानपुर, दिनांक : 20-12-2013

प्रतिलिपि निम्नांकित को उक्त महासंघ से सम्बद्ध घुनियनों की सूची एवं महासंघ के पदाधिकारियों की सूची सहित सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. महामंत्री, यू0पी0 वर्कर्स फ्रन्ट, पता- ई0डी0-17, डायमन्ड डेयरी कालोनी, उदयगंज, लखनऊ।
2. रजिस्ट्रार, श्रम न्यायालय/औद्योगिक न्यायाधिकरण, उ0प्र0, 7-स्ट्रैची रोड, इलाहाबाद।
3. समस्त श्रम न्यायालय/औद्योगिक न्यायाधिकरण, उ0प्र0।
4. अपर श्रम आयुक्त (औ0सं0), मुख्यालय, कानपुर।
5. प्रमुख सचिव (श्रम), उ0प्र0 शासन, बापू भवन, लखनऊ।
6. समस्त क्षेत्रीय अपर/उप श्रम आयुक्त।



(श्रीराम सिंह)

रजिस्ट्रार ट्रेड घुनियन, उ0प्र0।

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO. 2

IN

CIVIL MISC. WRIT PETITION (PIL) NO. /2020

(Under Article 226 of the Constitution of India)

(DISTRICT: PRAYAGRAJ)

UP Workers Front

— PETITIONER

VERSUS

Union of India and Anr.

— RESPONDENTS

उत्तर प्रदेश कतिपय श्रम अधिनियमों से अस्थायी छूट अध्यादेश, 2020

(उ0प्र0 अध्यादेश संख्या सन 2020)
(भारत गणराज्य के इकहत्तरवें वर्ष में राज्यपाल द्वारा प्रख्यापित)

समस्त कारखानों तथा विनिर्माण अधिष्ठानों को कतिपय श्रम अधिनियमों के प्रवर्तन से तीन वर्ष के लिये छूट प्रदान करने के लिये

अध्यादेश

चूंकि, राज्य विधानमण्डल सत्र में नहीं है और राज्यपाल का यह समाधान हो गया है कि, ऐसी परिस्थितियाँ विद्यमान हैं, जिनके कारण तुरन्त कार्यवाही करना आवश्यक हो गया है;

अतएव, भारत के संविधान के अनुच्छेद— 213 के खण्ड (1) द्वारा प्रदत्त शक्तियों का प्रयोग करके, राज्यपाल निम्नलिखित अध्यादेश प्रख्यापित करते हैं:—

अध्याय—1 प्रारम्भिक

संक्षिप्त नाम, विस्तार
एवं प्रारम्भ

- (1) यह अध्यादेश उत्तर प्रदेश कतिपय श्रम अधिनियमों से अस्थायी छूट अध्यादेश, 2020 कहा जायेगा।
(2) इसका विस्तार सम्पूर्ण उत्तर प्रदेश के लिये होगा।
(3) यह अध्यादेश गजट में प्रकाशित होने की तिथि से लागू होगा।

परिभाषायें

- इस अध्यादेश में जब तक कि सन्दर्भ की अन्यथा आवश्यकता न हो,
(1) "कारखाना" से अभिप्रेत ऐसे परिसर से है जो कारखाना अधिनियम की धारा—2(ड) के अन्तर्गत कारखाना के रूप में परिभाषित है।
(2) "विनिर्माण" से ऐसी प्रक्रिया अभिप्रेत है जो कारखाना अधिनियम की धारा—2(ट) के अन्तर्गत विनिर्माण प्रक्रिया के रूप में परिभाषित है।
(3) "न्यूनतम वेतन" से अभिप्रेत राज्य सरकार द्वारा विनिर्दिष्ट वेतन से है।
(4) "वेतन" से अभिप्रेत समस्त पारिश्रमिक जो न्यूनतम वेतन अधिनियम, 1948 की धारा—2(ज) के अन्तर्गत वेतन के रूप में परिभाषित है।
(5) "कर्मकार" से अभिप्रेत ऐसे व्यक्ति से है जो कारखाना अधिनियम की धारा—2(ठ) के अन्तर्गत कर्मकार के रूप में परिभाषित है।

अध्याय-2 अस्थायी छूट एवं उसकी शर्तें

अस्थायी छूट

3. सभी कारखाने तथा अधिष्ठान जो निर्माण प्रक्रिया में रत हैं, को उत्तर प्रदेश में लागू समस्त श्रम अधिनियमों के प्रचालन से तीन वर्ष की अवधि के लिये निम्नलिखित शर्तों के अधीन छूट होगी-

(क) समस्त नियोजित कर्मकारों का नाम एवं उनके विवरण कारखाना अधिनियम, 1948 की धारा-62 में विहित उपस्थिति पंजिका पर इलेक्ट्रानिक रीति से दर्ज किये जायेंगे।

(ख) किसी भी कर्मकार को उत्तर प्रदेश सरकार द्वारा विहित न्यूनतम वेतन से कम भुगतान नहीं किया जायेगा।

(ग) समस्त कर्मकारों को वेतन संदाय अधिनियम, 1936 की धारा-5 के अन्तर्गत विहित समय-सीमा के अन्तर्गत वेतन का भुगतान किया जायेगा।

(घ) समस्त कर्मकारों को वेतन का भुगतान उनके बैंक खाते में किया जायेगा।

(ङ) कर्मकारों के सुरक्षा एवं संरक्षा से सम्बन्धित कारखाना अधिनियम, 1948 तथा भवन एवं अन्य सन्निर्माण कर्मकार (नियोजन एवं सेवाशर्तें विनियमन) अधिनियम, 1996 के प्राविधान लागू रहेंगे।

(च) कर्मकारों को किसी दिन ग्यारह घण्टे से अधिक के लिये काम करने के लिये अपेक्षित या अनुज्ञात नहीं किया जायेगा तथा कार्यविस्तृति किसी भी दिन बारह घण्टे से अधिक नहीं होगी।

(छ) नियोजन के अनुक्रम में घटित किसी दुर्घटना के परिणामस्वरूप कर्मकार की मृत्यु अथवा अक्षमता कारित होने पर कर्मचारी प्रतिकर अधिनियम, 1923 के अनुसार क्षतिपूर्ति का भुगतान किया जायेगा।

(ज) महिलाओं और बच्चों के नियोजन से सम्बन्धित श्रम अधिनियमों के प्राविधान लागू रहेंगे।

(झ) बन्धुआ श्रम प्रथा (उत्सादन) अधिनियम, 1976 के प्राविधान लागू रहेंगे।

छूट की शर्तों के उल्लंघन का परिणाम

4. धारा-3 के अन्तर्गत विहित किन्हीं शर्तों के उल्लंघन की दशा में वर्तमान में प्रभावी सुसंगत अधिनियमों के अन्तर्गत कार्यवाही की जायेगी।

अध्याय-4 विविध

नियम बनाने की शक्ति

कठिनाईयों का
निवारण

निरसन एवं बचत

5. राज्य सरकार अधिसूचना के द्वारा अध्यादेश के प्रयोजनों के लिये नियम बना सकेगी।
6. (1) इस अध्यादेश के प्राविधानों को लागू करने के सम्बन्ध में यदि कोई कठिनाई उत्पन्न होती है, तो राज्य सरकार, अधिसूचना के द्वारा, कठिनाईयों के निवारण के लिये आवश्यक अथवा समुचित प्राविधान कर सकेगी।
(2) उपधारा-(1) के अन्तर्गत बनाये गये नियम राज्य विधान मण्डल के समक्ष यथाशीघ्र प्रस्तुत किये जायेंगे।
7. अध्यादेश में निहित किसी बात के होते हुये भी विभिन्न श्रम अधिनियमों के पूर्ववर्ती प्रचालन पर कोई प्रभाव नहीं होगा।

**THE UTTAR PRADESH TEMPORARY EXEMPTION FROM CERTAIN
LABOUR LAWS ORDINANCE, 2020**
(U.P. ORDINANCE NO.- OF 2020)

(Promulgated by The Governor In The Seventy First Year OF The Republic Of India)

**AN
ORDINANCE**

To exempt factories and other manufacturing establishments application of certain labour laws for a period three years.

WHEREAS the state legislature in no session the Governor is satisfied that circumstances exists which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of Article 213 of the Constitution of India, Governor is pleased to promulgate the following Ordinance:-

**CHAPTER-I
PRELIMINARY**

**Short Title, extent
and Commencement**

- 1- (1) This Ordinance may be called the Uttar Pradesh Temporary Exemption from Certain Labour Laws Ordinance, 2020
(2) It extends to the whole of Uttar Pradesh.
(3) This Ordinance shall come into force on the date of its publication in the Gazette.

Definitions

- 2- In this Ordinance, unless the context otherwise requires:-
(a) **“Factory”** means any premises defined as factory in section 2(m) of the Factories Act, 1948.
(b) **“Manufacturing”** means the process as defined manufacturing process under Section 2 (k) of the Factories Act.
(c) **“Minimum wage”** means the wage prescribed by State Government.
(d) **“Wages”** means all remunerations defined as wages in Section 2 (h) of the Minimum Wages Act, 1948.
(e) **“workers”** means a person defined as worker in section 2(l) of the Factories Act, 1948.

**CHAPTER- II
TEMPORARY EXEMPTION AND CONDITIONS THEREOF**

Temporary Exemption

- 3- All factories and establishments engaged in manufacturing process shall be exempted from the operation of all Labour Laws for a period of three years, subject to the fulfillment of the following conditions:

- (a) The name and details of all employed workers shall be entered electronically on attendance register prescribed in section-62 of the Factories Act, 1948.
- (b) No workers shall be paid less than minimum wages as prescribed by UP Government.
- (c) The wages to the workers shall be paid within the time limit prescribed under section- 5 of Payment of Wages Act, 1936.
- (d) The wages to workers shall be paid only in their bank accounts.
- (e) The provisions of Factories Act, 1948 and Building and Other Construction Workers (Regulation of Employment and Conditions of Service) Act, 1996 relating to safety and security of the workers shall remain applicable.
- (f) The workers shall not be allowed or required to work for more than eleven hours per day and the spread over of the work shall not be more than twelve hours per day.
- (g) For any death or disability due to accident arising out of and in the course of employment compensation shall be paid in accordance with Employees Compensation Act, 1923.
- (h) The provisions of the various labour laws relating to the employment of children and women shall remain applicable.
- (i) The provisions of Bonded Labour System (Abolition) Act, 1976 shall remain applicable.

Consequences for the breach of conditions of exemptions

- 4- For any breach of the conditions provided in section-3 action will be taken in accordance with the provisions of existing relevant Acts.

**CHAPTER – IV
MISCELLANEOUS**

Power to make rules

- 5- The State Government may, by notification, make rules for carrying out the purposes of this Ordinance.

Power to remove difficulties

- 6- (1) If any difficulty arises in giving effect to the provision of this Ordinance, the State Government may, by notification, make such provisions, not in consistent with the provisions of this ordinance as appear to be necessary or expedient for removing the difficulty.
(2) Every order made under sub-section (1) shall be laid as soon as may be, before both Houses of the State Legislature.

Repeal and Savings

- 7- Notwithstanding anything contained in this Ordinance, the previous operations of various Labour Laws shall not be affected.

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

ANNEXURE NO. 3

IN

CIVIL MISC. WRIT PETITION (PIL) NO. /2020

(Under Article 226 of the Constitution of India)

(DISTRICT: PRAYAGRAJ)

UP Workers Front

— PETITIONER

VERSUS

Union of India and Anr.

— RESPONDENTS

उत्तर प्रदेश शासन,

श्रम अनुभाग-3

संख्या- 13 /2020/50- /36-03-2020-30(सा0)/2020टी0सी0

लखनऊ : दिनांक ०४ मई, 2020

:: अधिसूचना ::

चूँकि कोविड-19 महामारी के कारण, भारत सरकार ने महामारी से लड़ने के लिए लॉकडाउन तथा अन्य कठोर उपाय घोषित किया है, जिसके फलस्वरूप उत्तर प्रदेश राज्य सहित सम्पूर्ण देश में लोक आपात की कोटि की आन्तरिक अशांति उत्पन्न हो गयी है।

अतएव, अब कारखाना अधिनियम, 1948 (अधिनियम संख्या 63 सन् 1948) की धारा 5 द्वारा प्रदत्त शक्तियों का प्रयोग करके उत्तर प्रदेश सरकार एतद्वारा यह निदेश देती है कि कारखाना अधिनियम, 1948 के अधीन रजिस्ट्रीकृत समस्त कारखाने, धारा 51, धारा 54, धारा 55, धारा 56 एवं धारा 59 के अधीन वयस्क कर्मकारों के लिए साप्ताहिक घण्टों, दैनिक घण्टों, अतिकाल तथा विश्राम अंतरालों आदि से संबंधित विभिन्न उपबन्धों से निम्नलिखित शर्तों के साथ दिनांक 20 अप्रैल से दिनांक 19 जुलाई, 2020 तक के लिये छूट प्राप्त होंगे :-

- (1) कोई वयस्क कर्मकार, किसी कारखाना में किसी एक कार्य दिवस में वारह घण्टे तथा एक सप्ताह में बहत्तर घण्टे से अधिक कार्य करने के लिए अनुज्ञात नहीं होगा या उससे ऐसा करने की अपेक्षा नहीं की जायेगी।
- (2) किसी कारखाना में प्रत्येक दिवस में वयस्क कर्मकारों की कार्य अवधियां इस प्रकार नियत की जायेंगी कि कोई अवधि छः घण्टे से अधिक न हो और यह कि कम से कम आधे घण्टे के विश्राम अंतराल के पूर्व कोई कर्मकार छः घण्टे से अधिक कार्य नहीं करेगा।
- (3) मजदूरी, विद्यमान मजदूरी दरों के अनुपात में होगी (उदाहरणार्थ यदि आठ घण्टे की मजदूरी अस्सी रूपये हो तो 12 घण्टे की अनुपातिक मजदूरी 120 रूपये होगी।

आज्ञा से,

(सुरेश चन्द्रा)

प्रमुख सचिव।


1

संख्या- 13 /2020/ 502 (1)/36-03-2020-30(सा०)/2020 टी०सी० तद्दिनांक

प्रतिलिपि : निम्नलिखित को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित :-

1. अंग्रजी प्रति सहित संयुक्त निदेशक, राजकीय मुद्रणालय ऐशबाग लखनऊ को इस अनुरोध के साथ प्रेषित है कि कृपया उक्त अधिसूचना को दिनांक मई, 2020 की असाधारण गजट के विधायी परिशिष्ट-4 (खण्ड ख) में प्रकाशित कर अधिसूचना की 150 मुद्रित प्रतियाँ श्रम अनुभाग-3 बापू भवन उ०प्र० सचिवालय लखनऊ एवं 150 प्रतियाँ श्रम आयुक्त उ०प्र० कानपुर पेटी संख्या-220 को तत्काल उपलब्ध कराने का कष्ट करें।
2. स्टाफ ऑफिसर, मुख्य सचिव, उ०प्र० शासन।
3. निजी सचिव, अवस्थापना एवं औद्योगिक विकास आयुक्त, उ०प्र० शासन।
4. श्रमायुक्त, उ०प्र०, कानपुर।
5. निदेशक कारखाना, उ०प्र० कानपुर।
6. अधिशासी अधिकारी, उद्योग बन्धु, उ०प्र० लखनऊ।
7. समस्त अपर/उप/सहायक श्रमायुक्त, उ०प्र० (द्वारा श्रम आयुक्त, उ०प्र० कानपुर)
8. समस्त उप/सहायक निदेशक कारखाना, उ०प्र०। (द्वारा निदेशक कारखाना, उ०प्र० कानपुर)

आज्ञा से,


(अजीज अहमद)
उप सचिव ।

16/05/2020

**Uttar Pradesh Shasan
Shram Anubhag-3**

In pursuance of the provisions of clause (3) of Article 348 of the Constitution the Governor is pleased to order the publication of the following English translation of notification no. 13 / 2020/502/ XXXVI-03-2020- 30 (Sa.)/2020TC, dated 08 May, 2020.

NOTIFICATION

No. 13 /2020/ 502/XXXVI-03-2020- 30 (Sa.)/2020TC


Dated Lucknow, 08 May, 2020

WHEREAS due to pandemic of Covid-19 Government of India has declared lockdown and other stringent measures to fight against the pandemic resulting occurrence of internal disturbance amounting to public emergency in the entire country including State of Uttar Pradesh.

NOW, THEREFORE, in exercise of the powers conferred by Section 5 of the Factories Act, 1948 (Act no. 63 of 1948) the Government of Uttar Pradesh hereby directs that all the factories registered under the Factories Act, 1948 shall be exempted from various provisions relating to weekly hours, daily hours, overtime, intervals for rest etc. of adult workers under section 51, section 54, section 55, section 56 and section 59 with the following conditions from 20th April till 19th July 2020 :-

- (1) No adult worker shall be allowed or required to work in a factory for more than twelve hours in any day and Seventy two hours in any week.
- (2) The periods of work of adult workers in a factory each day shall be so fixed that no period shall exceed six hours and that no worker shall work for more than six hours before he has had an interval for rest of at least half an hour.
- (3) Wages shall be in proportion of the existing wages. (e.g. If wages for eight hours are 80 Rupees, than proportionate wages for twelve hours will be 120 Rupees).

By Order,



(Suresh Chandra)

Pramukh Sachiv

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD**AFFIDAVIT****IN****CIVIL MISC. WRIT PETITION (PIL) NO. /2020****[DISTRICT: PRAYAGRAJ]**

UP Workers Front through its President Dinkar Kapoor

— PETITIONER**VERSUS**

Union of India and Anr.

— RESPONDENTS

Dinkar Kapoor S/o Ravi Kapoor; R/o 60/62 Jauhri Mehtar Gadhैया,
Paasi Tola, Husain Ganj, Lucknow aged about 47 years, Nationality
Indian, Religion Hindu Occupation Social Worker

(DEPONENT)

I the above named deponent do hereby solemnly affirm and state as follows:

1. That the deponent is the petitioner No.____/Pairokar of the petitioner in the above mentioned case and is fully acquainted with the facts deposed to below and those stated in the petition.
2. I, the deponent, above named do hereby solemnly affirm and swear that the contents of paragraph no. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13, 14, 15, 16, 18, 19, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 41, 42 & 45 of the petition are true to my personal knowledge; the contents of paragraph no. 11, 29 & 33 of the petition are based on perusal of records; the contents of paragraph no. – of the petition are based on information received, which I believe to be true and the contents of paragraph no. 17, 20, 21, 40, 43, 44, & 46 of the petition are based on legal advice, which I believe to be true and that no part of it is

false and nothing material has been concealed in it.

So help me God.

(DEPONENT)

I, Vinayak Mithal, Advocate, High Court, Allahabad, do hereby declare that the person making this affidavit and alleging himself is the same person. He is known to me from the perusal of papers which he has produced before me in the above noted case.


ADVOCATE

Solemnly affirmed before me on this ___th day of __, 2020 at about _____A.M./P.M. by the deponent who is identified by the above named Advocate.

I have satisfied myself by examining the deponent that he has understood the contents of this affidavit, which have been read over and explained to him.

OATH COMMISSIONER


 भारत सरकार
Government of India

 दिन्कर कपूर
Dinkar Kapoor
जन्म तिथि/DOB: 29/12/1973
पुरुष/ MALE

8961 6794 9456
VID: 9168 9695 1508 7500

मेरा आधार. मेरी पहचान



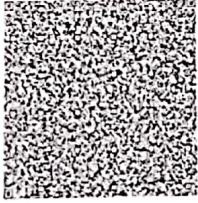
 भारत सरकार
Unique Identification Authority of India

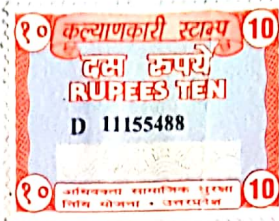
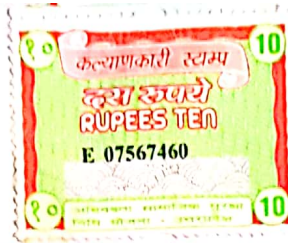
पता:
आलमज, रवि कपूर, 60 / 62, जौहरी मेहता गडिया, पासी
टोला, मुसिन गंज, लखनऊ, लखनऊ,
उत्तर प्रदेश - 226001

Address:
S/O. Ravi Kapoor, 60 / 62, Jauhri Mehtar
Gadhैया, Paasi Tola, Musain Ganj,
Lucknow, Lucknow,
Uttar Pradesh - 226001

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VID: 9168 9696 1508 7500

QR Code with Photograph





34

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

VAKALATNAMA

Category WPIL. Case No. _____/2020 District Prayagraj fixed for
Uttar Pradesh Workers Front through its President Dinkar Kapoor Petitioner

VERSUS

Union of India and Anr. Respondents

In the case noted above, I Dinkar Kapoor S/o Ravi Kapoor; R/o 60/62 Jauhri Mehtar Gadhैया, Paasi Tola, Husain Ganj, Lucknow do hereby appoint

VINAYAK MITHAL
Enrolment No. 2732/15
Advocate Roll No. A/V0876/2016
Lawyers Chamber No. 39,
New Building, High Court, Allahabad
Ph: 9455777473

PRANJAL SHUKLA
Enrolment No. 6540/2013
Advocate Roll No. A/P0481/2015
Ph: 9452111100

as Counsel, to appear, plead and act on behalf of the undersigned, in any manner, he thinks it proper, either himself or through any other Advocate, and in particular to do the following, namely,—to receive any process of Court (including any notice) from any appellate or revisional Court, to file any applications, petitions or pleadings, to file, produce or receive back any documents, to withdraw or compromise the proceedings, to refer any matter to arbitration, to deposit or withdraw any monies, to execute any decree or order, to certify payment, and receive any monies due under such decree or order.

The undersigned shall be bound by all whatsoever may be done in the aforesaid case (including any appeal or revision therefrom) for and on behalf of the undersigned by any one of the said counsel.

Signature.....
Name in full Dinkar Kapoor

Attesting witness.....
Name in full Sarwan Ram Daryapur Address... 18/USS. Near Mission Hospital
18 Indira Nagar Lucknow U.P.

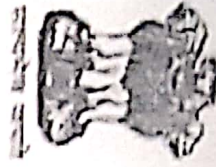
Accepted on the strength of the signatures of the attesting witness

Date: 12-05-2020

Accepted.

Vinayak Mithal
VINAYAK MITHAL
(Advocate)
Counsel for the Petitioner

Pranjal Shukla
PRANJAL SHUKLA
(Advocate)



भारत सरकार
GOVERNMENT OF INDIA

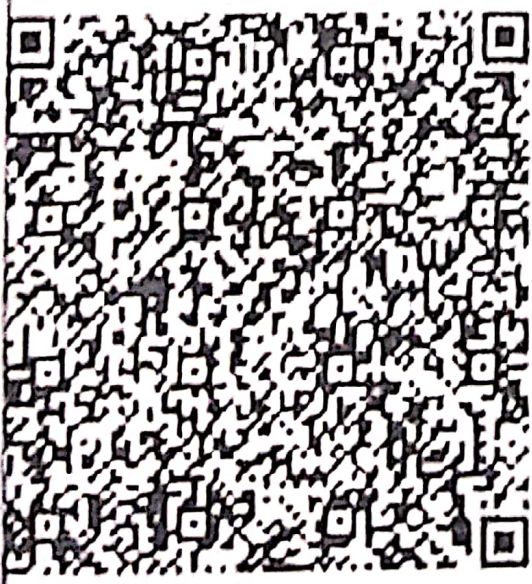
सरवान राम दारापुरी

Sarwan Ram Darapuri

जन्म तिथि/ DOB: 16/12/1943

पुरुष / MALE

4876 5853 3730



सेरा आधार, भेरी पहचान



UNIQUE IDENTIFICATION AUTHORITY OF INDIA

पता:

Address:

आत्मज: नरंजन राम,

S/O: Naranjan Ram, 18/455.

18/455, मिशन अस्पताल के

Near Mission Hospital. Sector-

वास, सेक्टर-18, इंदिरा

18, Indira Nagar, Lucknow.

नगर, लखनऊ,

Uttar Pradesh - 226016

उत्तर प्रदेश - 226016

4876 5853 3730



1800 300 1847



help@uidai.gov.in



www.uidai.gov.in

1800 300 1847

help@uidai.gov.in