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**LISTING PROFORMA**  
**IN THE SUPREME COURT OF INDIA**

**SECTION :**

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

- Central Act : **Constitution of India**
  - Section : **Article 14,21 and 32**
  - Central Rule : **NA**
  - Rule No(s) : **NA**
  - State Act : **NA**
  - Section : **NA**
  - State Rule : **NA**
  - Rule No(s) : **NA**
  - Impugned Interim order: **NA**
  - Impugned Final Order/Decree : **NA**
  - High Court : **NA**
  - Names of Judges: **NA**
  - Tribunal/Authority : **NA**
- 

1. Nature of matter : **CIVIL**
2. (a) Petitioner/appellant No.1 : **Bengal Madrasah Education Forum**  
(b) e-mail ID: **NA**  
(c) Mobile phone number: **NA**
3. (a) Respondent No. 1: **UNION OF INDIA**  
(b) e-mail ID: **NA**  
(c) Mobile phone number: **NA**
4. (a) Main category classification: **08– Letter Petition & Pil Matters**

- (b) Sub classification: **0818 - Social Justice Matters**
5. Not to be listed before: **NA**
6. (a) Similar disposed of matter with citation, if any, & case details: **NA**
- (b) Similar pending matter with case details: **NA**
7. **Criminal Matters:**
- (a) Whether accused/convict has surrendered:  Yes  No
- (b) FIR No.: **NA** Date: **NA**
- (c) Police Station: **NA**
- (4) Sentence Awarded: **NA**
- (e) Period of sentence undergone including period of detention /custody undergone: **NA**
8. **Land Acquisition Matters:**
- (a) Date of Section 4 notification: **NA**
- (2) Date of Section 6 notification: **NA**
- (c) Date of Section 17 notification: **NA**
9. **Tax Matters:** State the tax effect: **NA**
10. **Special Category** (first petitioner/appellant only):
- 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**

New Delhi  
Dated: 13.05.2020

**M.R. SHAMSHAD**  
Advocate for the Petitioner  
mrshamshadoffice@gmail.com  
9811125843  
**Code No. : 1758**



**IN THE HON'BLE SUPREME COURT OF INDIA**

**CIVIL EXTRAORDINARY JURISDICTION**

**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2020**

**(Petition under Article 32 of the Constitution of India read with  
Order XXXVIII of Supreme Court Rules, 2013)**

**IN THE MATTER OF:**

Bengal Madrasah Education Forum ...Petitioners

**VERSUS**

Union of India & Ors. ...Respondents

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

**ALONGWITH**

**I.A.No. \_\_\_\_\_ of 2020**

**Application Seeking Exemption from Filing Official Translation**

**PAPERBOOK**

**(PLEASE SEE INDEX INSIDE)**

**FILED BY:**

**ADVOCATE FOR THE PETITIONER M.R.SHAMSHAD**



**SYNOPSIS AND LIST OF DATES**

The present Petitioner has been constrained to approach this Hon'ble Court under Article 32 of the Constitution of India, in public interest, seeking appropriate directions to be issued to the Respondents to ensure that citizens of India residing in West Bengal get equal treatment as residents of Delhi in as much as the access to and quality of healthcare services, diagnostic and regular apart from emergency services during the present lockdown. Further directions are sought to the effect that some part of the funds collected in the West Bengal Chief Minister's Relief Fund be utilized for the wellbeing and transportation costs of migrant workers originating or stranded in West Bengal.

The country is presently in extended lockdown in terms of the guidelines issued by the Home Secretary, Government of India cum Chairman, National Executive Committee formed under the aegis of the National Disaster Management Act, 2005 to combat the Covid 19 epidemic. From the very first guidelines issued on 15.04.2020, in terms whereof the national lockdown was announced, the retail healthcare sector was exempted from the rigors of the same. However, during the entire period of lockdown so far, as has been extended twice, it has been noticed that the OPD Department of private hospitals and private clinics in West Bengal have remained shut or barely operational despite being exempt from the lockdown. This has caused and continues to cause grave difficulty to patients suffering from life threatening medical conditions apart from Covid 19, such as, Cancer, Thalassemia, Diabetes, Renal Failure, etc. These conditions are such that can cause death if not monitored and regulated. This requires

consultations and diagnostics which is being denied to the patients in West Bengal, but seemingly is available to patients in New Delhi.

Further, a considerable portion of the efforts of the Governments of India, the States and the Union Territories have gone towards the plight of the migrant worker during the present lockdown. As the lockdown was announced suddenly, a large number of migrant workers were caught unawares and stranded in various parts of the country. The Chairman, National Executive Committee (NDMA), and the States and Union Territories have taken steps to alleviate their duress, however, the news of thousands of such workers having to walk hundreds of kilometers home in the scorching heat of an Indian summer with no money or roadside eateries and amenities being open, dominated the national news recently. Then, the death of 16 migrant workers being crushed to death by a goods train in Aurangabad in the early hours of the morning of 08.05.2020 after having walked the whole of the previous day made national headlines. On 10.05.2020 there was news of a migrant worker from West Bengal committing suicide as he did not have the means to return home. The very next day, on 11.05.2020 there was news of a migrant worker walking home to Jharkhand from West Bengal being crushed to death. It is learnt that the State of Maharashtra has decided to use the CM's Relief Fund to pay for the migrant workers travel fare back home, accordingly it would seem in the best interests of migrant workers to direct the State of WB to apportion a sum from the West Bengal Chief Minister's Relief Fund to pay for the migrant workers travelling back home to and from West Bengal, so as to completely

avoid the situation of migrant workers walking hundreds of kilometers back home.

### **LIST OF DATES**

December, 2019	Coronavirus Disease 2019 (COVID-19) caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) identified in Wuhan, China.
30.01.2020	First case of Covid 19 in India reported from Kerala.
11.03.2020	Dr Tedros Adhanom Ghebreyesus, WHO's Director-General, characterized COVID-19 as a pandemic.
24.03.2020	The National Disaster Management Authority, constituted under the National Disaster Management Act, 2005 being satisfied that the country was threatened by Covid 19, declared a pandemic by the World Health Organization, exercised powers under S. 6(2)(i) thereof and directed the Ministries/Departments of the 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 in terms of Order No. 1-29/2020-PP(Pt.II). Necessary guidelines issued by the National Executive Committee

under S. 10(2)(1) of the Act of 2005 were to immediately follow.

On the same day, the Home Secretary, Government of India, being the Chairman of the National Executive Committee under the National Disaster Management Act, 2005 issued guidelines, in terms of Order No. 40-3/2020-DM-I (A). The said Order, in terms of the guidelines annexed thereto, placed the country under ‘Lockdown’<sup>1</sup> for a period of 21 days to commence from 25.03.2020. i.e. till 14.04.2020. In terms of Recital 3 of the said Guidelines dated 24.03.2020, hospitals and all related establishments including their manufacturing and distribution units, both in the public and private sector, such as dispensaries, chemist and medical equipment shops, laboratories, clinics, nursing homes, ambulance etc. were to continue to remain functional.

25.03.2020

In continuation of Order No. 40-3/2020-DM-I (A), the Home Secretary, Government of India/Chairman, National Executive Committee (NDMA) [hereinafter referred to as “*Home Secretary, GOI/Chairman, NEC(NDMA)*”] issued an addendum to the

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<sup>1</sup> The term ‘Lockdown’ is not used in the said Order of the MHA. The term is being used herein as the same has become a popular term to refer to the guidelines initially issued on 24.03.2020.

guidelines dated 24.03.2020 in terms whereof veterinary hospitals, pharmacies (including Jan Aushadi Kendra) and pharmaceutical research labs were exempted from the lockdown i.e. such establishments were exempted from the operation of the guidelines dated 24.03.2020.

27.03.2020

A second amendment to the lockdown guidelines was issued by the Home Secretary, GOI / Chairman, NEC (NDMA). The exemptions to the healthcare sector were not modified.

Further, a press release of the same day, issued by the Press Information Bureau, GOI stated that the Union Home Secretary had written to all States/UTs to take immediate steps to provide adequate support, including food and shelter, to migrant agricultural labourers, industrial workers and other unorganized sector workers during the 21-day Nationwide COVID-19 lockdown.

28.03.2020

A press release issued by the Press Information Bureau, GOI stated that State Governments had been advised to set up Relief Camps along Highways, to provide food and shelter to migrant workers returning to their domicile States. It was further stated that the MHA had authorized States to use

State Disaster Response Fund for relief measures for migrant workers during COVID-19 lockdown.

29.03.2020 The Home Secretary, GOI/Chairman, NEC(NDMA) issued further guidelines in terms whereof the State/Union Territory Governments and authorities were directed to take necessary actions and issue necessary orders to deal with the situation of movement of large numbers of migrants to reach their hometowns, in some parts of the country. The governments of the State/Union Territories were directed to inter alia, ensure adequate arrangement of temporary shelters, food and other provisions for migrant workers and needy people stranded due to lockdown<sup>2</sup> measures.

Further, on the same day, the Home Secretary, GOI issued a letter to all the Chief Secretaries of the various States, clarifying lockdown guidelines so as to avoid any ambiguity at the ground level.

31.03.2020 This Hon'ble Court disposed off Writ Petition (Civil) Nos. 468-469 and inter alia issued certain directions to the Respondent herein for the welfare of migrant workers in shelter

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<sup>2</sup> This is the first MHA Order to use the term 'lockdown'.



camps. The said directions included provision of adequate facilities and the access to counsellors and community leaders.

01.04.2020 The directions of this Hon'ble Court in Writ Petition (Civil) Nos. 468-469/2020, regarding migrant workers in shelter camps were communicated by the Ministry of Health and Family Welfare to all the Chief Secretaries of States/UTs in terms of a letter dated 01.04.2020.

On the same day, the Huffington Post carried an article titled *'Indian Migrants Walk Hundreds Of Miles To Return Home Amid COVID- 19 Lockdown'*. The said article estimated that about 5,00,000 stranded migrant workers had walked back home after the lockdown began.

02.04.2020 The Home Secretary, GOI/Chairman, NEC(NDMA) issued the third addendum to the lockdown guidelines. The exemptions given to the healthcare sector remained unchanged. Standard Operating Procedures for Foreigners stranded in India; and release of quarantined persons, who have returned from abroad, after expiry of quarantine period and tested covid negative, were also issued.

On the same day, BBC published an article titled '*Coronavirus: Cancer patients not getting medicine in India, thalassemia blood does not match*'. The said article highlighted the plight of AIDS, cancer or thalassemia patients during the lockdown inasmuch as them having to postpone consultations, non-availability of blood and medicines and the inability of patients in rural areas to visit hospitals in urban centers.

Further, on the same day, the Home Secretary, GOI issued a clarification, inter alia stating that hospital and medical services exempt under clause 3 of the lockdown guidelines would include AYUSH services i.e. the sale and distribution of drugs, hospital dispensaries, individual clinics and telemedicine facilities and further that manufacturing industries exempt under clause 5(a) of the guidelines included AYUSH drugs.

03.04.2020

The Home Secretary, GOI issued a letter to all the Chief Secretaries of States and another letter to the Administrators of all Union Territories, in terms whereof, inter alia, it was clarified that laboratories had been exempted from the lockdown restrictions.

Further, a corrigendum for the letters dated 03.04.2020 was also issued, rectifying a date. The exemptions granted to the healthcare sector from the lockdown guidelines remained in place.

04.04.2020

Outlook Magazine carried an article wherein the plight of the passengers of the ‘Cancer Train’ running between Bhatinda and Bikaner was highlighted. The ‘Cancer Train’ being the popular term for the train that runs daily, servicing the hundreds of cancer patients of the Malwa region in Punjab which has a high incidence of Uranium poisoning. Dr M.R. Bardia, Director of Acharya Tulsi Cancer Institute is quoted as stating that OPD services were shut due to the lockdown. The article also carried quotes from cancer patients and their heightened plight during the lockdown.

On the same day The Print carried an article highlighting the plight of cancer and renal failure patients. The article also stated that the OPD Department of most government and private hospitals had been shut to prioritize space for covid patients.

10.04.2020

The Home Secretary, GOI/Chairman, NEC(NDMA) issued the fifth addendum to the lockdown guidelines, in terms whereof

exemption therefrom was granted to the fishing industry. The exemption from the guidelines given to the healthcare sector still stood wholly in place.

12.04.2020 The Home Secretary, GOI wrote to the Chief Secretaries for the States and the Administrators of Union Territories reiterating the letter dated 01.04.2020 issued by the Ministry of Health and Family Welfare.

14.04.2020 The National Disaster Management Authority issued Order No. 1-137/2018-Mit-II(FTS-10548) in terms whereof the social distancing norms, popularly referred to as lockdown was extended till 03.05.2020.

On the same day, the Home Secretary, GOI/Chairman, NEC(NDMA), issued an order extending the operation of the lockdown guidelines issued on 24.03.2020 and modified on 25.03.02020, 27.03.2020, 03.04.2020 and 10.04.2020 of which a consolidated version was placed on the Ministry of Home Affairs website, till 03.05.2020.

15.04.2020 The Home Secretary, GOI/Chairman, NEC(NDMA), issued an Order conditionally relaxing the operation of the lockdown guidelines w.e.f. 20.04.2020. In terms of

clause 5 of the consolidated guidelines, all health services were directed to remain functional. This explicitly included hospitals, nursing homes, clinics and diagnostic services.

- 16.04.2020 The Home Secretary, GOI/Chairman, NEC(NDMA), issued an Order adding certain industries to the conditionally relaxed guidelines dated 15.04.2020.
- 19.04.2020 The Home Secretary, GOI/Chairman, NEC(NDMA), issued an Order allowing movement of stranded labour within the present State of current location. The Standard Operating Protocols for the same was also enclosed.
- 20.04.2020 India Today carried an article titled '*Delhi HC satisfied with govt measures for emergency treatment to non-Covid patients in hospitals*'. The said article stated that Delhi High Court has expressed satisfaction over measures taken by the Centre and Delhi government to provide treatment to non-Covid-19 patients including those needing chemotherapy, dialysis and pregnant women, despite the enormous pressure due to coronavirus situation.

- 20.04.2020            The Petitioner herein acting through its President wrote to the Chief Minister of West Bengal requesting urgent attention towards patients of non covid 19 patients who suffer from other life threatening diseases and medical conditions.
- 21.04.2020            The Home Secretary, GOI/Chairman, NEC(NDMA), wrote to the Chief Secretaries and Administrators of Union Territories giving clarifications about the conditionally relaxed guidelines, inter alia concerning the social sector, public utilities and supply of essential commodities.
- On the same day, the Home Secretary, GOI/Chairman, NEC(NDMA) also issued an order amending the revised guidelines to include certain establishments and services to the conditionally relaxed guidelines.
- 24.04.2020            The Home Secretary, GOI/Chairman, NEC(NDMA), in continuation of the Order dated 15.04.2020 modified and further included certain categories of shops to the conditionally relaxed guidelines.
- 28.04.2020            The Secretary, Ministry of Health and Family Welfare wrote to all the Chief Secretaries of States and Administrators of Union Territories apprising them of certain reports

received by the Ministry of hospitals in the private sector being hesitant in providing critical services such as dialysis, blood transfusion, chemotherapy, and institutional deliveries or are keeping their hospitals/clinics closed for fear of contraction of Covid 19 or are insisting on testing for Covid before providing services. It was also stated that since the lockdown guidelines issued on 15.04.2020, all healthcare services were to remain functional. Lastly it was requested that the measures as stated were are taken on consultation with the healthcare fraternity in their respective states and to ensure that health facilities, especially those in the private sector, both clinics and hospitals, do remain functional and that anyone needing any essential critical services including dialysis, blood transfusion, chemotherapy and institutional deliveries is not denied such service.

29.04.2020

The Home Secretary, GOI/Chairman, NEC(NDMA), in continuation of the Orders dated 15.04.2020, 16.04.2020, 19.04.2020, 21.04.2020 and 24.04.2020 amended the consolidated revised guidelines and allowed the interstate movement of migrant workers, pilgrims, tourists, students and other persons.

- 30.04.2020 The Health and Family Welfare Department of the Government of West Bengal issued an advisory with reference of the Letter dated 28.04.2020 issued by Ministry of Health and Family Welfare, GOI, for the necessary action of all hospitals and healthcare facilities in the State to provide unrestricted services.
- 01.05.2020 The National Disaster Management Authority issued Order No. 1-29/2020-PP directing the Chairperson, NEC to extend the lockdown measures for a further period of two weeks w.e.f. 04.05.2020.
- Thereafter, the Home Secretary, GOI/Chairman, NEC(NDMA) in terms of an Order passed the same day, extended the lockdown measures for a further period of two weeks w.e.f. 04.05.2020 and issued new guidelines to be operational in the said period.
- On the same day, the Times of India published an article titled '*West Bengal: Hospital doors still shut for non-Covid patients*'.
- 03.05.2020 A clarification was issued by the Home Secretary, GOI with regard to the Orders dated 29.04.2020 and 01.05.2020, wherein it was stated that the said orders were to facilitate the travel of stranded migrant workers back to their native places and not for



migrant workers seeking to visit their native places in normal order.

- 08.05.2020 A goods train ran over 19 migrant workers, killing 16, while the rest were seriously injured in the train accident at Karmad-Satana near Aurangabad, Maharashtra. The said incident was reported in the New Indian Express. It was also stated that the accident occurred when these migrants were in deep sleep after walking the entire day in the scorching heat, the goods train rammed over them by killing them at around 4.00 am.
- 09.05.2020 The Petitioner herein acting through its President wrote to the Chief Minister of West Bengal, seeking an appointment and travel pass to handover a cheque of Rs. Twenty-Five Lakh One Thousand One Hundred and One for the Chief Ministers Relief Fund for the well being of migrant workers and buying Personal Protective Equipment for healthcare workers.
- 10.05.2020 Mr. Asif Iqbal Mondal, a young migrant worker aged 22, resident of Shiropara at Domkol in Murshidabad, West Bengal hanged himself from a tree at a mango orchard at Kodanad in Ernakulam, Kerala failing to return home for want of money on 09.05.2020. The said incident was reported in

the Deccan Chronicle on 10.05.2020 in terms of an article titled '*Unable to return home, migrant labourer from Bengal ends life in Kerala*'

- 11.05.2020 The Indian Express carried an article titled 'Migrant walking home to Jharkhand run over in Bengal'. The article related to one Mr. Fuldev Bhuyia, who worked as a mason in Kolkata, who was left stranded after the sudden announcement of the national lockdown. Mr. Fuldev Bhuyia's body was found on NH2, having suffered a high impact accident.
- 12.05.2020 It is still seen that the private hospitals have not started their OPD services and private clinics of doctors and services of diagnostic labs remain to be shut in West Bengal. Further the plight of migrant workers still remains in the news as accidents and incidents of police overreach in dealing with them are reported.
- 13.05.2020 Hence the present writ petition.

**IN THE SUPREME COURT OF INDIA**  
**(CIVIL EXTRA ORDINARY JURISDICTION)**

**PUBLIC INTEREST LITIGATION**

**WRIT PETITION (CIVIL) NO. OF 2019**

**(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)**

**IN THE MATTER OF:**

BENGAL MADRASAH EDUCATION  
FORUM

PETITIONER  
NO. 1

Through its President Mr. Israrul Hoque  
Mondal, S/o Ekramul Hoque Mondal,  
R/o Gopalpur, P.O. –Koyair, P.S.  
Khandaghosh, Dist.–Purba Bardhaman,  
West Bengal, Pin Code: 713423

Email:- israrulmondal08@gmail.com

Mob.8250173023

Pan No.: AYDPM4355P

Aadhaar No.: 946873930957

**VERSUS**

1. UNION OF INDIA

RESPONDENT  
NO. 1

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

2. STATE OF WEST BENGAL

RESPONDENT  
NO. 2

Through its Chief Secretary, Nabanna,  
13th Floor, 325, Sarat Chatterjee Road,  
Mandirtala Shibpur, Howrah-711102

ALL ARE CONTESTING RESPONDENTS

WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA SEEKING APPROPRIATE DIRECTIONS TO BE ISSUED TO THE RESPONDENTS TO ENSURE THAT CITIZENS OF INDIA RESIDING IN WEST BENGAL GET EQUAL TREATMENT AS RESIDENTS OF DELHI IN AS MUCH AS THE ACCESS TO AND QUALITY OF HEALTHCARE SERVICES, DIAGNOSTIC AND REGULAR APART FROM EMERGENCY SERVICES DURING THE PRESENT LOCKDOWN AND SEEKING FURTHER DIRECTIONS TO THE EFFECT THAT SOME PART OF THE FUNDS COLLECTED IN THE WEST BENGAL CHIEF MINISTER'S RELIEF FUND BE UTILIZED FOR THE WELLBEING AND TRANSPORTATION COSTS OF MIGRANT WORKERS ORIGINATING OR STRANDED IN WEST BENGAL.

TO,

HON'BLE THE CHIEF  
JUSTICE OF INDIA AND  
OTHER COMPANION  
JUSTICES OF THE HON'BLE  
SUPREME COURT OF INDIA

THE HUMBLE  
PETITION OF THE

PETITIONER  
ABOVENAMED

**MOST RESPECTFULLY SHEWETH:**

1. That the present Petitioner has been constrained to approach this Hon'ble Court under Article 32 of the Constitution of India, seeking appropriate directions to be issued to the Respondents to ensure that citizens of India residing in West Bengal get equal treatment as residents of Delhi in as much as the access to and quality of healthcare services, diagnostic and regular apart from emergency services during the present lockdown. Further directions are sought to the effect that some part of the funds collected in the West Bengal Chief Minister's Relief Fund be utilized for the wellbeing and transportation costs of migrant workers originating or stranded in West Bengal.
- 1A That the Petitioners herein have not moved the concerned government authority for reliefs sought herein, as such, there is no result thereof.
2. That the Petitioner, namely Bengal Madrasah Education Forum is a Public Charitable Trust. The said forum is an apolitical, social organization working towards social upliftment of minorities, with a focus on education. The forum is represented through its President, Mr. Israrul Hoque Mondal, who is a teacher by profession. His Aadhaar No. is 946873930957 and PAN No. is AYDPM4355P. He regularly files his Tax Returns. The gross income of the Petitioner for FY 2018-2019 is Rs. 5,14,473. A true copy of the Petitioner No. 1's ITR for FY 2018-19 is annexed herewith and marked as **ANNEXURE P-1** (Please see pg. 24). A true copy of the Petitioner No. 1's Aadhaar Card

- is annexed herewith and marked as **ANNEXURE P-2** (Please see pg. 25). A true copy of the Petitioner No. 1's PAN Card is annexed herewith and marked as **ANNEXURE P-3** (Please see pg. 26).
3. That Petitioner does not have any personal interest or any personal gain or private motive or any other oblique reason for filing the present writ petition in public interest.
  4. That the Petitioner is itself bearing the litigation costs and other charges of the present petition in public interest.
  5. That the Petitioner has not been involved in any other civil or criminal or revenue litigation which could have any legal nexus with the issues involved in the present writ petition in public interest.
  6. That Respondent No. 1 is the Union of India through Ministry of Home Affairs which is responsible for a myriad of functions including but not limited to internal security, border management, Centre-State relations, and administration of Union Territories and of advising the Central Government on related matters. Its Secretary is the incumbent Chairman of the Central Executive Committee formed under S. 10 of the National Disaster Management Act, 2005
  7. That Respondent No. 2 is the State of West Bengal through its Chief Secretary.

#### **FACTS OF THE CASE**

8. That in December, 2019 Coronavirus Disease 2019 (COVID-19) caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) identified in Wuhan, China.
9. That on 30.01.2020, the first case of Covid 19 in India was reported from Kerala.
10. That on 11.03.2020, Dr Tedros Adhanom Ghebreyesus, Director-General, World Health Organization, characterized COVID-19 as a pandemic.
11. That on 24.03.2020, the National Disaster Management Authority, constituted under the National Disaster Management Act, 2005 being satisfied that the country was threatened by Covid 19, declared a pandemic by the World Health Organization, exercised powers under S. 6(2)(i) thereof and directed the Ministries/Departments of the 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 in terms of Order No. 1-29/2020-PP(Pt.II). Necessary guidelines issued by the National Executive Committee under S. 10(2)(1) of the Act of 2005 were to immediately follow. A true copy of Order No. 1-29/2020-PP(Pt.II) dated 24.03.2020 is annexed herewith and marked as **ANNEXURE P-4** (Please see page 27).
12. On the same day, the Home Secretary, Government of India, being the Chairman of the National Executive Committee under the National Disaster Management Act, 2005 issued guidelines, in terms of Order No. 40-3/2020-DM-I (A). The said Order, in terms of the guidelines annexed thereto, placed the country

under 'Lockdown' for a period of 21 days to commence from 25.03.2020. i.e. till 14.04.2020. In terms of Recital 3 of the said Guidelines dated 24.03.2020, hospitals and all related establishments including their manufacturing and distribution units, both in the public and private sector, such as dispensaries, chemist and medical equipment shops, laboratories, clinics, nursing homes, ambulance etc. were to continue to remain functional. A true copy of Order No. 40-3/2020-DM-I (A) dated 24.03.2020 is annexed herewith and marked as **ANNEXURE P-5** (Please see page 28).

13. That on 25.03.2020, in continuation of Order No. 40-3/2020-DM-I (A), the Home Secretary, Government of India/Chairman, National Executive Committee (NDMA) [hereinafter referred to as "Home Secretary, GOI/Chairman, NEC(NDMA)"] issued an addendum to the guidelines dated 24.03.2020 in terms whereof veterinary hospitals, pharmacies (including Jan Aushadi Kendra) and pharmaceutical research labs were exempted from the lockdown i.e. such establishments were exempted from the operation of the guidelines dated 24.03.2020. A true copy of Govt. Order dated 25.03.2020 is annexed herewith and marked as **ANNEXURE P-6** (Please see pages 29 to 30).
14. That on 27.03.2020, a second amendment to the lockdown guidelines was issued by the Home Secretary, GOI / Chairman, NEC (NDMA). The exemptions to the healthcare sector were not modified. A true copy of Govt. Order dated 27.03.2020 is annexed herewith and marked as **ANNEXURE P-7** (Please see pages 31 to 32).



15. Further, a press release of the same day, issued by the Press Information Bureau, GOI stated that the Union Home Secretary had written to all States/UTs to take immediate steps to provide adequate support, including food and shelter, to migrant agricultural labourers, industrial workers and other unorganized sector workers during the 21-day Nationwide COVID-19 lockdown. A true copy of Press Release dated 27.03.2020 is annexed herewith and marked as **ANNEXURE P-8** (Please see page 33).
16. That on 28.03.2020, a press release issued by the Press Information Bureau, GOI stated that State Governments had been advised to set up Relief Camps along Highways, to provide food and shelter to migrant workers returning to their domicile States. It was further stated that the MHA had authorized States to use State Disaster Response Fund for relief measures for migrant workers during COVID-19 lockdown. A true copy of Press Release dated 27.03.2020 is annexed herewith and marked as **ANNEXURE P-9** (Please see pages 34 to 35).
17. That on 29.03.2020, the Home Secretary, GOI/Chairman, NEC(NDMA) issued further guidelines in terms of an Order whereby the State/Union Territory Governments and authorities were directed to take necessary actions and issue necessary orders to deal with the situation of movement of large numbers of migrants to reach their hometowns, in various parts of the country. The governments of the State/Union Territories were directed inter alia, to ensure adequate arrangement of temporary shelters, food and other provisions for migrant workers and needy people stranded due to lockdown measures. A true copy

of Govt. Order dated 29.03.2020 is annexed herewith and marked as **ANNEXURE P-10** (Please see pages 36to 37).

18. Further, on the same day, the Home Secretary, GOI issued a letter to all the Chief Secretaries of the various States, clarifying lockdown guidelines so as to avoid any ambiguity at the ground level. A true copy of Letter dated 29.03.2020 is annexed herewith and marked as **ANNEXURE P-11** (Please see pages 38 to 39).
19. That on 31.03.2020, This Hon'ble Court disposed off Writ Petition (Civil) Nos. 468-469 and inter alia issued certain directions to the Respondent herein for the welfare of migrant workers in shelter camps. The said directions included provision of adequate facilities and the access to counsellors and community leaders.
20. That on 01.04.2020, the directions of this Hon'ble Court in Writ Petition (Civil) Nos. 468-469/2020, inter alia regarding migrant workers in shelter camps were communicated by the Ministry of Health and Family Welfare to all the Chief Secretaries of States/UTs in terms of a letter. A true copy of Letter dated 01.04.2020 is annexed herewith and marked as **ANNEXURE P-12** (Please see page 40).
21. On the same day, the Huffington Post carried an article titled 'Indian Migrants Walk Hundreds Of Miles To Return Home Amid COVID- 19 Lockdown'. The said article estimated that about 5,00,000 stranded migrant workers had walked back home after the lockdown began. A true copy of Article dated

01.04.2020 is annexed herewith and marked as **ANNEXURE P-13** (Please see pages 41 to 45).

22. That on 02.04.2020, The Home Secretary, GOI/Chairman, NEC(NDMA) issued the third addendum to the lockdown guidelines. The exemptions given to the healthcare sector remained unchanged. Standard Operating Procedures for Foreigners stranded in India; and release of quarantined persons, who have returned from abroad, after expiry of quarantine period and tested covid negative, were also issued. A true copy of Govt. Order dated 02.04.2020 and Guidelines therewith are annexed herewith and marked as **ANNEXURE P-14** (Please see pages 46 to 49).
23. That on the same day, BBC published an article titled 'Coronavirus: Cancer patients not getting medicine in India, thalassemia blood does not match'. The said article highlighted the plight of AIDS, cancer or thalassemia patients during the lockdown inasmuch as them having to postpone consultations, non-availability of blood and medicines and the inability of patients in rural areas to visit hospitals in urban centers. A true translated copy of BBC Article dated 02.04.2020 is annexed herewith and marked as **ANNEXURE P-15** (Please see pages 50 to 53).
24. Further still, on the same day, the Home Secretary, GOI issued a clarification, inter alia stating that hospital and medical services exempt under clause 3 of the lockdown guidelines would include AYUSH services i.e. the sale and distribution of drugs, hospital dispensaries, individual clinics and telemedicine facilities and further that manufacturing industries exempt under

clause 5(a) of the guidelines included AYUSH drugs. A true copy of Govt. Order dated 02.04.2020 is annexed herewith and marked as **ANNEXURE P-16** (Please see page 56).

25. That on 03.04.2020, the Home Secretary, GOI issued a letter to all the Chief Secretaries of States and another letter to the Administrators of all Union Territories, in terms whereof, inter alia, it was clarified that laboratories had been exempted from the lockdown restrictions. A true copy of Letter dated 03.04.2020 is annexed herewith and marked as **ANNEXURE P-17** (Please see pages 55 to 57).
26. Further, a corrigendum for the letters dated 03.04.2020 was also issued, rectifying a date. The exemptions granted to the healthcare sector from the lockdown guidelines remained in place. A true copy of Corrigendum dated 03.04.2020 is annexed herewith and marked as **ANNEXURE P-18** (Please see page 58).
27. That on 04.04.2020, Outlook Magazine carried an article wherein the plight of the passengers of the 'Cancer Train' running between Bhatinda and Bikaner was highlighted. The 'Cancer Train' being the popular term for the train that runs daily, servicing the hundreds of cancer patients of the Malwa region in Punjab which has a high incidence of Uranium poisoning. Dr M.R. Bardia, Director of Acharya Tulsi Cancer Institute is quoted as stating that OPD services were shut due to the lockdown. The article also carried quotes from cancer patients and their heightened plight during the lockdown. A true copy of Outlook Magazine Article dated 04.04.2020 is annexed

herewith and marked as **ANNEXURE P-19** (Please see pages 59 to 61).

28. On the same day The Print carried an article highlighting the plight of cancer and renal failure patients. The article also stated that the OPD Department of most government and private hospitals had been shut to prioritize space for covid patients. A true copy of The Print's Article dated 04.04.2020 is annexed herewith and marked as **ANNEXURE P-20** (Please see pages 62 to 64).
29. That on 10.04.2020, the Home Secretary, GOI/Chairman, NEC(NDMA) issued the fifth addendum to the lockdown guidelines, in terms whereof exemption therefrom was granted to the fishing industry. The exemption from the guidelines given to the healthcare sector still stood wholly in place. A true copy of Govt. Order dated 10.04.2020 is annexed herewith and marked as **ANNEXURE P-21** (Please see pages 65 to 66).
30. That on 12.04.2020, the Home Secretary, GOI wrote to the Chief Secretaries for the States and the Administrators of Union Territories reiterating the letter dated 01.04.2020 issued by the Ministry of Health and Family Welfare. A true copy of Letter dated 12.04.2020 is annexed herewith and marked as **ANNEXURE P-22** (Please see page 67).
31. That on 14.04.2020, The National Disaster Management Authority issued Order No. 1-137/2018-Mit-II(FTS-10548) in terms whereof the social distancing norms, popularly referred to as lockdown was extended till 03.05.2020.

32. On the same day, the Home Secretary, GOI/Chairman, NEC(NDMA), issued an order extending the operation of the lockdown guidelines issued on 24.03.2020 and modified on 25.03.02020, 27.03.2020, 03.04.2020 and 10.04.2020 of which a consolidated version was placed on the Ministry of Home Affairs website, till 03.05.2020. A true copy of Govt. Order dated 14.04.2020 is annexed herewith and marked as **ANNEXURE P-23** (Please see pages 68 to 74).
33. That on 15.04.2020, the Home Secretary, GOI/Chairman, NEC(NDMA), issued an Order conditionally relaxing the operation of the lockdown guidelines w.e.f. 20.04.2020. In terms of clause 5 of the consolidated guidelines, all health services were directed to remain functional. This explicitly included hospitals, nursing homes, clinics and diagnostic services. A true copy of Govt. Order dated 15.04.2020 is annexed herewith and marked as **ANNEXURE P-24** (Please see pages 75 to 89).
34. That on 16.04.2020 The Home Secretary, GOI/Chairman, NEC(NDMA), issued an Order adding certain industries to the conditionally relaxed guidelines dated 15.04.2020. A true copy of Govt. Order dated 16.04.2020 is annexed herewith and marked as **ANNEXURE P-25** (Please see page 90).
35. That on 19.04.2020, the Home Secretary, GOI/Chairman, NEC(NDMA), issued an Order allowing movement of stranded labour within the present State of current location. The Standard Operating Protocols for the same was also enclosed. A true copy of Govt. Order dated 19.04.2020 is annexed herewith and marked as **ANNEXURE P-26** (Please see pages 91 to 92).

36. That on 20.04.2020, India Today carried an article titled '*Delhi HC satisfied with govt measures for emergency treatment to non-Covid patients in hospitals*'. The said article stated that Delhi High Court had expressed satisfaction over measures taken by the Centre and Delhi government to provide treatment to non-Covid-19 patients including those needing chemotherapy, dialysis and pregnant women, despite the enormous pressure due to coronavirus situation. A true copy of India Today's article dated 20.04.2020 is annexed herewith and marked as **ANNEXURE P-27** (Please see pages 93 to 95).
37. Also, on 20.04.2020, the Petitioner herein acting through its President wrote to the Chief Minister of West Bengal requesting urgent attention towards patients of non covid 19 patients who suffer from other life threatening diseases and medical conditions. A true copy of Letter dated 20.04.2020 is annexed herewith and marked as **ANNEXURE P-28** (Please see pages 96 to 97).
38. That on 21.04.2020, the Home Secretary, GOI/Chairman, NEC(NDMA), wrote to the Chief Secretaries and Administrators of Union Territories giving clarifications about the conditionally relaxed guidelines, inter alia concerning the social sector, public utilities and supply of essential commodities. A true copy of Letter dated 21.04.2020 is annexed herewith and marked as **ANNEXURE P-29** (Please see page 98).
39. On the same day, the Home Secretary, GOI/Chairman, NEC(NDMA) also issued an order amending the revised guidelines to include certain establishments and services to the

conditionally relaxed guidelines. A true copy of Govt. Order dated 21.04.2020 is annexed herewith and marked as **ANNEXURE P-30** (Please see pages 99 to 101).

**40.** That on 24.04.2020, the Home Secretary, GOI/Chairman, NEC(NDMA), in continuation of the Order dated 15.04.2020 modified and further included certain categories of shops to the conditionally relaxed guidelines. A true copy of Govt. Order dated 24.04.2020 is annexed herewith and marked as **ANNEXURE P-31** (Please see page 102).

**41.** That on 28.04.2020, the Secretary, Ministry of Health and Family Welfare wrote to all the Chief Secretaries of States and Administrators of Union Territories apprising them of certain reports received by the Ministry of hospitals in the private sector being hesitant in providing critical services such as dialysis, blood transfusion, chemotherapy, and institutional deliveries or are keeping their hospitals/clinics closed for fear of contraction of Covid 19 or are insisting on testing for Covid before providing services. It was also stated that since the lockdown guidelines issued on 15.04.2020, all healthcare services were to remain functional. Lastly it was requested that the measures as stated were are taken on consultation with the healthcare fraternity in their respective states and to ensure that health facilities, especially those in the private sector, both clinics and hospitals, do remain functional and that anyone needing any essential critical services including dialysis, blood transfusion, chemotherapy and institutional deliveries is not denied such service. A true copy of Letter dated 28.04.2020 is annexed



herewith and marked as **ANNEXURE P-32** (Please see pages 103 to 105).

42. That on 29.04.2020, the Home Secretary, GOI/Chairman, NEC(NDMA), in continuation of the Orders dated 15.04.2020, 16.04.2020, 19.04.2020, 21.04.2020 and 24.04.2020 amended the consolidated revised guidelines and allowed the interstate movement of migrant workers, pilgrims, tourists, students and other persons. A true copy of Govt. Order dated 29.04.2020 is annexed herewith and marked as **ANNEXURE P-33** (Please see pages 106 to 107).
43. That on 30.04.2020, the Health and Family Welfare Department of the Government of West Bengal issued an advisory with reference of the Letter dated 28.04.2020 (issued by Ministry of Health and Family Welfare, GOI), for the necessary action of all hospitals and healthcare facilities in the State to provide unrestricted services. A true copy of Advisory dated 30.04.2020 is annexed herewith and marked as **ANNEXURE P-34** (Please see page 108).
44. That on 01.05.2020, the National Disaster Management Authority issued Order No. 1-29/2020-PP directing the Chairperson, NEC to extend the lockdown measures for a further period of two weeks w.e.f. 04.05.2020.
45. Thereafter, the Home Secretary, GOI/Chairman, NEC(NDMA) in terms of an Order passed the same day, extended the lockdown measures for a further period of two weeks w.e.f. 04.05.2020 and issued new guidelines to be operational in the said period. A true copy of Govt. Order dated 01.05.2020 is

annexed herewith and marked as **ANNEXURE P-35** (Please see pages 109 to120).

46. On the same day, the Times of India published an article titled '*West Bengal: Hospital doors still shut for non-Covid patients*'. A true typed copy of Article dated 01.05.2020 is annexed herewith and marked as **ANNEXURE P-36** (Please see pages 121to122).
47. That on 03.05.2020, a clarification was issued by the Home Secretary, GOI with regard to the Orders dated 29.04.2020 and 01.05.2020, wherein it was stated that the said orders were to facilitate the travel of stranded migrant workers back to their native places and not for migrant workers seeking to visit their native places in normal order. A true copy of Govt. Order dated 03.05.2020 is annexed herewith and marked as **ANNEXURE P-37** (Please see page 123).
48. That on 08.05.2020, a goods train ran over 19 migrant workers, killing 16, while the rest were seriously injured in the train accident at Karmad-Satana near Aurangabad, Maharashtra. The said incident was reported in the New Indian Express. It was also stated that the accident occurred when these migrants were in deep sleep after walking the entire day in the scorching heat, the goods train rammed over them by killing them at around 4.00 am. A true copy of New Indian Express's article dated 08.05.2020 is annexed herewith and marked as **ANNEXURE P-38** (Please see pages 124 to 127).
49. That on 09.05.2020, the Petitioner herein acting through its President wrote to the Chief Minister of West Bengal, seeking

an appointment and travel pass to handover a cheque of Rs. Twenty-Five Lakh One Thousand One Hundred and One for the Chief Ministers Relief Fund for the well being of migrant workers and buying Personal Protective Equipment for healthcare workers. A true copy of Letter dated 09.05.2020 is annexed herewith and marked as **ANNEXURE P-39** (Please see page 128).

50. That on 10.05.2020, Mr. Asif Iqbal Mondal, a young migrant worker aged 22, resident of Shiropara at Domkol in Murshidabad, West Bengal hanged himself from a tree at a mango orchard at Kodanad in Ernakulam, Kerala failing to return home for want of money on 09.05.2020. The said incident was reported in the Deccan Chronicle on 10.05.2020 in terms of an article titled 'Unable to return home, migrant labourer from Bengal ends life in Kerala'. A true copy of Deccan Chronicle's Article dated 10.05.2020 is annexed herewith and marked as **ANNEXURE P-40** (Please see pages 129 to130).
51. That on 11.05.2020, the Indian Express carried an article titled 'Migrant walking home to Jharkhand run over in Bengal'. The article related to one Mr. Fuldev Bhuyia, who worked as a mason in Kolkata, who was left stranded after the sudden announcement of the national lockdown. Mr. Fuldev Bhuyia's body was found on NH2, having suffered a high impact accident. A true typed copy of Indian Express's Article dated 11.05.2020 is annexed herewith and marked as **ANNEXURE P-41** (Please see pages 131 to132)
52. That it is still seen that the private hospitals have not started their OPD services and private clinics of doctors and services of

diagnostic labs remain to be shut in West Bengal. Further the plight of migrant workers still remains in the news as accidents and incidents of police overreach in dealing with them are reported.

**53.** In light of the above, the following questions of law have arisen, which require determination by this Hon'ble Court:

- A. Whether the private establishments engaged in provision of essential services can deny such service without express Orders from the State?
- B. Whether private hospitals and clinics can be allowed to deny services in the absence of any injunction on their functioning?
- C. Whether the allowing of walking home of thousands of migrant workers stranded across the length and breadth of the country, in summer heat during a disaster is a failure of State and as such deserving of compensation?

**54.** That the Petitioner has no personal interest or private / oblique motive in filing the instant petition but only seek the intervention of this Hon'ble Court in order to ensure that natural rights are recognized and protected by the Constitutional framework laid down by the Hon'ble Supreme Court. That the Petitioners are not involved in any litigation before any other forum/court/authority, which has a nexus with the instant Petition.

**55.** That in the circumstances mentioned herein, this Petition is being preferred by the Petitioner inter alia on the following amongst other grounds without prejudice to each other:

### **GROUND**

- A. Because patients of life threatening medical conditions such as cancer, thalassemia, renal failure, diabetes cannot have access to healthcare facilities basis their State of domicile.
- B. Because the Delhi High Court has expressed its satisfaction to the healthcare services being rendered to the individuals residing within the territorial bounds of New Delhi in times of the present national lockdown to combat Covid-19.
- C. Because the individuals residing in West Bengal are being denied access to healthcare services if the same is not for the purposes of emergency conditions. It is stated that diagnostics and consultations form the basis of regulation of other life threatening conditions apart from Covid 19.
- D. Because many instances of death of migrant workers walking back home to their native places of domicile have been reported.
- E. Because the conditions prevailing have induced migrant workers to walk back home to their States of native origin despite repeated Govt Orders and Guidelines being issued by the Chairman, National Executive Committee (NDMA) directing the States to ensure the well being of such workers.
- F. Because the Chief Minister's Relief Fund is earmarked for disbursement during major natural calamities i.e. acts of God. The circumstances of migrant workers walking back hundreds of kilometres, as a consequence

of a global pandemic and national lockdown, duly qualifies as such a circumstance.

56. That in view of the above it is in the interest of justice and equity that the Petitioner seeks to pray following directions from this Hon'ble Court under Article 32 of the Constitution of India.
57. That the Annexures to the present writ petition are true or true typed copies of their respective original.
58. That this Petition has been filed in bonafide and in public interest and the Petitioners crave the leave of this Hon'ble Court to amend the Grounds taken herein, if and when required.
59. That this Hon'ble Court has jurisdiction to decide this writ petition in public interest under Article 32 of the Constitution of India.
60. That no similar petition seeking similar relief has been filed by the Petitioner before this Hon'ble Court or any other Court.

### **PRAYER**

In the circumstances it is most respectfully prayed that this Hon'ble Court may be pleased to:

- a) Pass appropriate writ, order or direction to the Respondents to ensure that the OPD department of private hospitals and clinics are reopened and diagnostic and consultation services therein resumed while observing social distancing norms as are in force.

- b) Pass appropriate writ, order or direction the State of West Bengal to utilize a portion of the Chief Minister's Relief Fund to pay for the well being and travel cost of stranded migrant workers;
- c) Pass such other and further order/orders as are deemed fit and proper in the facts and circumstances of the case.

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

**DRAWN BY:**

ADITYA SAMADDAR, ADV

**FILED BY:**

**DRAWN ON:**12.05.2020

**FILED ON :**13.05.2020

**[M R SHAMSHAD]**

ADVOCATE FOR THE PETITIONERS