

COMMANDING THEM TO MAKE A MECHANISM TO CHECK CONTENTS AND ADVERTISEMENTS WHICH ARE SPREADING HATRED AMONGST THE COMMUNITIES, SEDITIOUS, INSTIGATIVE, SEPARATIST, HATE FILLED, DIVISIVE, AGAINST THE SOCIETY AT LARGE AND AGAINST THE SPIRIT OF UNION OF INDIA

TO,

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

THE HUMBLE PETITION OF
ABOVE-NAMED PETITIONER

MOST RESPECTFULLY SHOWETH:-

1. The Petitioner is filing the present PIL under Article 32 of Constitution of India to issue appropriate Writ, Order or Direction to the Respondents thereby directing them to make a mechanism to check contents and advertisements which are spreading hatred amongst the communities, seditious, instigative, separatist, hate filled, divisive against the society at large and against the spirit of the Union of India.
2. That the petitioner filed a representation to the concerned authority to act in accordance with the law of the country against the social media giant having Twitter as their social media application. However, no action has been taken so far by the concerned authorities. A copy of the representation dated 01.07.2019 is annexed herewith as **ANNEXURE P-1 at (Pages to)**.

3. The petitioner herein is a citizen of India and is an Entrepreneur, currently is the Member of Governing Council of CRIS, Ministry of Railway. The petitioner was also the member of Task Force (IT) of Ministries of Road Transport, Highways and Shipping. The petitioner is a permanent resident at the aforementioned address at Mumbai, Maharashtra.

Details of the petitioner are given herein below: -

Name of the Petitioner	Vinit Goenka
Father's Name:	
Postal Address:	
Mobile No.	
Email Address:	
Occupation:	
Aadhar Card No.	
Annual Income:	
PAN Number:	

4. The Petitioner has not filed any other Writ Petition either before this Hon'ble Court or before any other Hon'ble High Court seeking same or similar directions as prayed for in this petition.

5. That the Respondent No.1 is the Union of India, Respondent No.2 is the Ministry of Law and Justice, Respondent No.3 is the Ministry of Information & Broadcasting and Respondent No.4 is a social media platform which is directly involved in the violation of rules of Union of India.
6. That in the absence of any mechanism or law prohibiting Twitter Inc. and/or Twitter Communications India Pvt Ltd. and other similar social media platforms from spreading, circulating, amplifying in the form advertisement or otherwise which are spreading separatist agenda, seditious material, hatred amongst communities, instigative, divisive against the society at large, threat to national security and against the spirit of the Union of India.
7. That due to inaction of Respondent No.1 to 3 for not having any rule, circular, notification, mechanism prohibiting the Respondent No.4 from acting, publishing, circulating the news/ contents/ articles which are contrary to the law of land and also spirit of Union of India and the said platform is being used to call upon separatist, creating panic in some sections of the society, challenging the unity, integrity and sovereignty of Union of India. Currently, the separatists are using the platform of Respondent No.4 to communicate the message which calls upon breaking of India and respondent No.4 has abated the act by accepting financial ratification and paid advertisements.

8. **BRIEF FACTS OF THE CASE:-**

(i) On 16.06.2019, the Petitioner saw a tweet done by Twitter user with name mentioned as Gurpatwant Singh Pannun through his Twitter handle @GPannun. The screenshot of the tweet is annexed herewith as **ANNEXURE P-2 at (Pages to**).

(ii) That Article 19 & 20 of the International Covenant of Civil and Personal Life reads as under: -

“Article 19:-

1. *Everyone shall have the right to hold opinions without interference.*

2. *Everyone shall have the right to freedom of expression, this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*

3. *The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities, it may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary.*

(a) *For respect of the rights or reputations of others;*

(b) *For the protection of national security or of public order (ordre public), or of public health or morals.*

Article 20:-

1. *Any propaganda for war shall be prohibited by law.*
2. *Any advocacy of National, racial or religious, hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”*

As per the above mentioned international law, it is settled that the State has to prohibitate such type of hate speeches or advertisements which are having seperatist agenda, seditious material, hatred amongst communities, instigative, divisive against the society at large, threat to national security and against the spirit of the Union of India.

A true copy of the International Covenant of Civil and Personal Rights Act is annexed herewith as **ANNEXURE P-3 at (Pages to)**.

- (iii) That recently, as per the powers given in International Covenant of Civil and Personal Rights Act (ICCPR) under Article 19 & 20, the State of Germany has inacted a law known as Network Enforcement Act, 2017 to stop these kind of hate speeches or advertisements which are having seperatist agenda, seditious material, hatred amongst communities, instigative, divisive against the society at large, threat to national security and against the spirit of the States. It is further submitted that as per the provisions of the above mentioned Act (Network Enforcement Act, 2017) ‘if any social networking site does not follow the guidelines made by this act

that particular social networking site or platform or handles will be liable to pay fine under Section 4 of the abovementioned Act.

A true copy of the Network Enforcement Act enacted by State of Germany is annexed herewith as **ANNEXURE P-4 at (Pages to)**.

- (iv) That on the same subject, on 04.12.2019, Nigerian Senate is considering two bills on hate speeches advertisements which are having seperatist agenda, seditious material, hatred amongst communities, instigative, divisive against the society at large, threat to national security and against the spirit of the States and propose from minimum three years imprisonment to death penalty on the above mentioned acts. A copy of the law enacted by Nigerian Senate is annexed herewith as **ANNEXURE P-5 at (Pages to)**.

- (v) That recently, United Nations of Human Rights through Office of High Commissioner wrote a joint open letter on concerns about the global increasing hate speeches which was signed by the 26 mandates of the different countries. A true copy of the joint open letter written by United Nations of Human Rights through Office of High Commission is annexed herewith as **ANNEXURE P-6 at (Pages to)**.

- (v) That Global Terror Groups like ISIS, Al Qaeda and Indian Mujahiddin use the platform of Respondent

No.1 and other social networking platforms to circular hate speeches because it helps them avoid detection. In India, there have been numerous examples when fake vedios and hate messages were circulated through this platform have helped communal strife. Recently, Delhi riots 2020 is the latest example. A copy of the News Article in this regard is annexed herewith as **ANNEXURE P-7 at (Pages to)**.

- (vi) That the Petitioner being the responsible citizen of this Country, objected to the aforesaid seditious, hateful twitter message to Ms. Shagufta Kamran the representative of Twitter in India and questioned the paid advertisement about the Anti India content and requested not to create hatred in the society at large. It is respectfully submitted that the aforementioned widely promoted message in the form of advertisement have been re-tweeted by many other twitter handles and have been promoted by Respondent No.4 in the form of advertisement and have created anti India sentiments. The said contents amounts to waging a war against the Union of India and against the spirit of the sovereignty and integrity of India not only by the handle but also the platform and its representative Ms. Shagufta Kamran by not acting against such tweets inspite of repeated information and request, as the platform collected advertisement fees and promoted it as a “Promoted tweet” for wider reach amongst audiences across the

world thereby helping to garner anti India sentiments across the world.

9. **GROUND:**

The following grounds arise for kind consideration of this Hon'ble Court:-

- a) Because Ministry of Home Affairs banned Sikhs for Justice (SFJ) under the Unlawful Activities and Prevention Act on 10th July 2019, yet SFJ continues to have an active presence on twitter espousing hatred, terrorism and sedition, criminal acts under our constitution.
- b) Because the Respondent No.3 deliberately and knowingly in order to create rift in the society deliberately promoted the prohibited content of the SFJ.
- c) Because in the absence of any law to deal with offensive and hatred messages, the platforms like Twitter are knowingly promoting the messages which are against the law of the land and therefore, the Respondent No.4 needs to explain for circulating and promoting the prohibited content from their company Twitter. The aforesaid act shows that the Respondent No.4 is sympathetic to Terrorist groups.
- d) Because Twitter assume that as a platform they are not governed by Indian constitution and can operate with impunity and therefore, a law is required to deal with such kind of hatred and divisive messages.

- e) Because as per Article 19(2) of the Constitution of India which empowers the State for making any law insofar as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause 19(1)(a) in the interest of sovereignty and integrity of India, the security of the state, friendly relations with the foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence.
- f) Because it is respectfully submitted that the Article 19 & 20 of the International Covenant of Civil and Personal Life, the contents of which are reproduced herein below for the kind perusal of this Hon'ble Court: -

“Article 19:-

1. *Everyone shall have the right to hold opinions without interference.*
2. *Everyone shall have the right to freedom of expression, this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.*
3. *The exercise of the rights provided for in paragraph 2 of this article carries with it special duties and responsibilities, it may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary.*

- (a) *For respect of the rights or reputations of others;*
- (b) *For the protection of national security or of public order (ordre public), or of public health or morals.*

Article 20:-

1. *Any propaganda for war shall be prohibited by law.*
2. *Any advocacy of National, racial or religious, hatred that constitutes incitement to discrimination, hostility or violence shall be prohibited by law.”*

As per the above mentioned International Law, it is settled that the State has to prohibitate such type of hate speeches or advertisements which are having seperatist agenda, seditious material, hatred amongst communities, instigative, divisive against the society at large, threat to national security and against the spirit of the Union of India.

- g) Because presently more than 330 million active users are using Twitter handles and thus by circulating/promoting/advertising the said content or the similar content either through paid / promoted advertisements or otherwise through verified , non-verified handles and fake handles it becomes root cause of many divisions in society leading to riots, violence, disharmony in the society and challenges the sovereignty and integrity of the Union of India and also spoil the image of our nation in

international forums and affect the international relations with many countries. Such content also radicalizes people and act as recruitment engines for waging wars against Union of India.

- h) Because recently, as per the powers given in International Covenant of Civil and Personal Rights Act (ICCPR) under Article 19 & 20, the State of Germany has inacted a law known as Network Enforcement Act, 2017 to stop these kind of hate speeches or advertisements which are having seperatist agenda, seditious material, hatred amongst communities, instigative, divisive against the society at large, threat to national security and against the spirit of the States. It is further submitted that as per the provisions of the above mentioned Act (Network Enforcement Act, 2017) 'if any social networking site does not follow the guidelines made by this act that particular social networking site or platform or handles will be liable to pay fine under Section 4 of the abovementioned Act.

- i) Because on the same subject, on 04.12.2019, Nigerian Senate is considering two bills on hate speeches advertisements which are having seperatist agenda, seditious material, hatred amongst communities, instigative, divisive against the society at large, threat to national security and against the spirit of the States and propose from minimum three

years imprisonment to death penalty on the above mentioned acts.

- j) Because recently, United Nations of Human Rights through Office of High Commissioner wrote a joint open letter on concerns about the global increasing hate speeches which was signed by the 26 mandates of the different countries.
- k) Because Global Terror Groups like ISIS, Al Qaeda and Indian Mujahiddin use the platform of Respondent No.1 and other social networking platforms to circular hate speeches because it helps them avoid detection. In India, there have been numerous examples when fake vedios and hate messages were circulated through this platform have helped communal strife. Recently, Delhi riots 2020 is the latest example.
- l) Because the aforesaid act of the Respondent No.4 is beyond the ambit of Article 19 of the Constitution of India and amounts against the spirit of the Constitution as it involves the breaking of India and its citizens.
- m) Because as per the Data Sovereignty whereby such Anti National tweets / content are published then those contents should not just be deleted but such accounts be discontinued, and proof should be provided to Government of India about such people

who have indulged in anti national activities in India or outside India.

- n) Because the platforms like Twitter should be asked to change policy and prevent anti India propaganda.
- o) Because Twitter and social media companies are profit making companies and expecting them to have safeguards for making social media safe and secure is important. The logic and algorithms that twitter usage should be shared and vetted by Indian government authorities or competent authority for screening anti India tweets.
- p) Because the Respondent No.1 to 3 must make a mechanism to take appropriate action under the Law in violation by Respondent No.4 Twitter Inc. and/or Twitter Communications India Pvt Ltd.
- q) The KYC of all social media handles in India must be conducted for making social media safe and accountable and traceable.
- r) The Advertisement fees collected by Twitter for such anti India tweets, promoted tweets should be accounted for and Government of India should levy fines about the same.

PRAYER

In view of the aforesaid facts and circumstances, it is therefore, most respectfully prayed that this Hon'ble Court may kindly be pleased to: -

- (a) issue a Writ of Mandamus or any other Writ, Order or Direction against the Respondents thereby commanding them to make a mechanism to check contents and advertisements which are spreading hatred amongst the communities, seditious, instigative, separatist, hate filled, divisive, against the society at large and against the spirit of Union of India.
- (b) direct the Respondent No.1 to 3 to make a law as per which an action can be initiated against the breaking India messages under the garb of Article 19 of the Constitution of India against the Respondent No.4 and their representatives in India for willfully abetting and promoting Anti India tweets and penalize them and their relevant authorities according to law of the land.
- (c) pass any other or further order which this Hon'ble Court may deem just and proper in the facts and circumstances of the present case to meet the ends of justice.

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

Filed by

(Ashwani Kr. Dubey)
Advocate
Counsel for the Petitioner

New Delhi
Date: 16.05.2020