

**IN THE SUPREME COURT OF INDIA
ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) DIARY NO. 10866 OF 2020**

IN THE MATTER OF

Supriya Pandita

...

Petitioner

VERSUS

Union of India & Ors

...

Respondents

**Counter Affidavit on behalf of
Respondent / Union of India**

I, Ram Vilas Premi, S/o Late Jalim Singh, aged about 58 years, posted as Under Secretary, Ministry of Home Affairs, Government of India, do hereby solemnly state and affirm as under :-

1. That I am the above mentioned person and being well conversant with the facts and circumstances of the case and also being duly authorized, I say that I am competent to swear the present Affidavit on behalf of Respondents, Union of India.
2. I further state and submit that I have read and understood the content of the list of dates, writ petition and accompanying applications. At the outset I deny all the contentions stated in the subject writ petition. I state

that nothing stated in the subject writ petition should be deemed to be admitted by me hereunder.

3. At the further outset, it is respectfully submitted that Respondent No 4, Union of India, is filing this preliminary affidavit to place on record such necessary facts which are relevant and germane for adjudication of the present writ petition. As such the Respondent No 4, Union of India, is not filing a parawise reply to the subject writ petition. The deponent craves leave of this Hon'ble court to file a detailed parawise reply at the subsequent stage of hearing, if required.

4. It is submitted that on 24th March, 2020 when the national lockdown was required to be declared w.e.f. 25th March, 2020, the first priority was to contain the spread of the virus and to ensure that no human movement takes place from one area to another including the movement of migrant workers from urban areas to their respective native States. This was a decision taken to ensure that any further spread of pandemic is stopped immediately and the cycle of corona virus spread is broken. A copy of the directions issued by the Respondent No 4, Union of India dated 25.03.2020 is annexed hereto and marked as **Annexure R-1**.

5. I respectfully state and submit that in view of the directions issued by the Respondent/ UOI on 25th March 2020, the State Executive Committee under GNCTD also issued the 'Delhi DMA Order No.121' dated 25th March, 2020 along with guidelines under Section 22 of the Disaster Management Act, 2005, with a direction for its strict implementation. Vide the said guidelines a large number of measures were taken for the convenience of homeless/destitute/deprived and distressed members of society. The details of some of the said measures are as under:

- (i) On 25th March, 2020 arrangements were made through the Night Shelters which were managed by Delhi Urban Shelter Improvement Board[DUSIB] to ensure that these people have regular access to cooked food and clean drinking water.
- (ii) Thereafter, on 26th March, 2020 all the District Magistrates were directed to make arrangements, preferably in schools or community centres, to provide cooked food as lunch and dinner to people not being able to make arrangement for the same, on regular basis till the continuation of lockdown measures.
- (iii) Also directions were issued to ensure that protocols related to social distancing were strictly followed. Arrangements were also made to allow these people to stay in shelters.

A copy of the 'Delhi DMA Order No.121' dated 25th March, 2020 is annexed hereto and marked as **Annexure R-2.**

6. I respectfully state and submit that despite the aforesaid directions and despite substantial financial packages being announced by the Central Government for the homeless/destitute/deprived and distressed members of society, some of the migrant workers, not only residing in Delhi but also in other parts of the country, due to anxiety, instigation, and other psychological reasons started a journey to their home town on foot. Since this would have defeated the very basic purpose of the lockdown, therefore, the respective state authorities were directed to immediately house them in shelter camps providing them with food, drinking water, shelter and medication.

7. It is submitted that unfortunately due to circulation of certain misinformation in the area of GNCT, thousands of migrants gathered at Anand Vihar bus terminal/and Ghazipur Border area on 28.03.2020. I respectfully state and submit that this gathering occurred due to fake media reports, wherein, a false information was circulated that 1000 buses for travel of stranded migrants to their home state have been arranged and would be available at

the said points. I respectfully state and submit that immediately upon getting information about this impromptu gathering at Anand vihar bus terminal/and Ghazipur Border area, the local Delhi Police came into action. The following immediate action was taken by the Delhi Police to control the situation:-

- (i) Additional force of Delhi Police was deployed in the area to control the crowd. Furthermore repeated announcements were made requesting the crowd to follow social distancing protocols;
- (ii) Earnest requests were made to the gathering for their return to their respective homes in Delhi through public announcement systems.
- (iii) Movement of migrant workers from other districts to Anand Vihar and Ghazipur Border area was immediately stopped through deployment of adequate force.
- (iv) FIRs were lodged against erring bus drivers/conductors transporting the migrant workers towards Anand Vihar.
- (v) Further, coordination was done with multiple agencies of Delhi Government and UP administration to control the situation.
- (vi) Since, it was not possible to take coercive measures to remove such a large gathering of people comprising of a large number of children, women

and senior citizens who had assembled with their luggage, therefore, the crowd was provided with facemasks, refreshments food and water etc since none of them were willing to go back to their present places of stay.

8. It is respectfully submitted that the Delhi Police [East District] had not only responded to the situation on 28.03.2020 swiftly and in a coordinated manner to remove the gathering but also took adequate steps to ensure that such incident is not repeated and no unauthorized gathering takes place at and around Anand Vihar ISBT or any other area in the jurisdiction of East District.

9. It is submitted that with a view to curb any unauthorized movement of migrant labourers and to ensure that the movement of migrant labours does not vitiate the purpose of Lockdown-01, Delhi Police effectively responded with following additional measures –

- i) A detailed and round the clock arrangement at and around Anand Vihar ISBT, was issued w.e.f. 29.03.2020 vide which all the roads converging to Anand Vihar ISBT were closed by deploying pickets with adequate staff at 14 identified strategic points. (Copy of the arrangement issued is enclosed at Annexure- 'R-3'). Besides, continuous and round-

the-clock presence of police staff was ensured on other pickets deployed in the jurisdiction of East District which including border pickets to keep a check over any unauthorized movement towards Anand Vihar.

- ii) Intensive vehicular and foot patrolling was done to ensure visibility of police on the main roads as well as interior areas, so that all the movements in the area are monitored. Additional police personnel's on two wheeler motor cycles were deployed so that they could swiftly penetrate and patrol the interior areas of densely populated colonies so as to sensitize people to follow lock down and to prevent violation thereof by any section of the society. Dedicated hired buses with adequate staff were deployed in the jurisdiction of each police station of East District and in case any movement of migrant labourers was detected, they were either sent back to their places in Delhi or to various Shelter Homes situated in East District through these buses.
- iii) With a view to counter any rumours regarding plying of busses from Anand Vihar, vehicles fitted with 'Public Announcement' system were used for announcement at all places where migrant labourers reside. Video messages informing the public that no

bus is plying from Anand Vihar were circulated and this was also given wide publicity through social media as well as electronic media to make the general public including migrant labourers aware of the present situation.

- iv) Continuous dialogue and counselling of migrant labour in the area was also done to assure them of all help from the District Police as well as government. The landlords were sensitized to waive off the rent for their tenants and the contractors were asked to pay the financial benefits to their labourers. Shelter Homes and colonies of migrant labourers were regularly visited by the officers of East District Police to ensure the wellbeing of migrant labourers. During the visits, the grievances of migrant labourers were also heard and prompt steps were taken to redress the same in coordination with civil administration.
- v) Distribution of food, milk and other essential items to the migrant labourers their children at their places of stay such as construction sites, shelter homes, jhuggi clusters, Khadar areas etc. was done with the help of other Government Departments, Good Samaritans and NGOs to ensure that they do

not migrate for want of basic necessities. A collective effort to the best of the abilities of all individuals was sought to be made to remediate the grievances of the destitute persons in time bound manner. Besides, as and when any need of food or dry ration was noticed or reported including through PCR Calls, food and dry ration was also provided to the needy persons.

- vi) Vehicles suspected of carrying the labourers clandestinely were thoroughly checked and strict action was taken against all such vehicle/drivers who were found illegally carrying the migrant labourers. Thirty eight (38) such cases have already been registered in the police stations of East District.
- vii) During Lockdown-3, operations of Shramik Special Trains were announced by the Authorities and several trains were scheduled for departure from Anand Vihar Railway Station. In anticipation of similar outbreak and gathering of migrant labourers at and around Anand Vihar Railway Station and ISBT, all preventive measures were taken in advance. A detailed arrangement dated 13.05.2020 was also prepared and executed aptly to ensure smooth movement of migrant labourers without allowing any unauthorized mass gathering during departure of Shramik Special Trains. As a result,

smooth movement of migrant labourers through Shramik Special Trains from Anand Vihar Railway Station, were ensured following all the guidelines laid down by the authorities and without any incident of outbreak or mass gathering in the jurisdiction of East District. A copy of the detailed arrangement dated 13.05.2020 is annexed hereto and marked as **Annexure -R-4**.

- viii) Moreover, amid the anticipation of extension of lockdown post 17.05.2020, large number of migrant labourers again started moving towards the borders to go to their native places. However, responding to the situation, foolproof strategy was derived and adequate arrangements were put in place at and around Gazipur Border to deal with the situation under the close supervision of senior officers. The copy of arrangement issued is attached at **Annexure -'R-5'**. Besides, all picket and patrolling staff of East District were activated to keep check over the movement of migrant labourers. An extensive drive to shift the moving migrant labourers was again undertaken and large numbers of migrant labourers were shifted to the Shelter Homes of East District through busses in coordination with the civil authorities. As a result of continuous and

coordinated efforts, the movement of migrant labours were curtailed successfully.

Thus it is evident from aforementioned facts that not only the Delhi Police had not only responded promptly and tackled aptly, the situation arising out of sudden mass gathering on 28.03.2020 but had also taken adequate measures to prevent any repetition of the incident during subsequent phases of the lockdown.

10. Without prejudice to the above, it is respectfully stated that apart for the afore-mentioned measures which were taken by the respondent to deal with the situation which arose on 28.03.2020, this Hon'ble Court also as early as on 30-03-2020, itself, in exercise of its writ jurisdiction took cognizance of this issue in Writ Petition (Civil) No.468 of 2020 titled as *Alakh Alok Srivastava Versus Union Of India* and started monitoring various aspects of pandemic management including movement and gathering of migrant workers on state borders of NCT. It is submitted that in the said petition the Respondent No 4, Union of India, had filed two detailed Status Reports inter-alia placing all the actions taken by the Respondents and the State Governments. It is submitted that based on the inputs received from all quarters it was submitted that no migrant worker was on road walking.

11. I respectfully submit that having perused various pre-emptive and pro-active steps taken by the Central Government and the States Government through various ministries like Ministry of Finance, Health, Ministry of Home Affairs, Civil Aviation, Railways etc. which were placed in great detail, this Hon'ble Court was fully satisfied that the Central Government in discharge of its obligations and based upon the collective decisions taken by the executive at Centre and State level in consultation and advise of the experts in each field had remediated the problems of migrants coming on road for their travel to their home towns. It is submitted that this Hon'ble Court, after being fully satisfied about handling of the migrant problem during initial days of the lockdown, stopped further monitoring of the said case. For ready reference of this Hon'ble court the copies of the orders dated 30-03-2020, 31-03-2020, 03-04-2020, 07-04-2020 and 27-04-2020 passed by this Hon'ble court in Writ Petition (Civil) No.468 of 2020 is annexed hereto and marked as **Annexure R-6 to R-10** respectively. It is further respectfully submitted that so far as the prayers made in the present petition are concerned, it is would not be relevant for Respondent No 4, Union of India, to place the entire status report filed before this Hon'ble Court. However, the Respondent No 4, Union of India, undertakes to place on record of this Hon'ble court the

said two status reports filed by it in the aforesaid matter for the perusal of the court in case this Hon'ble court desires to peruse the same.

12. Apart from the above, it is extremely crucial to note here that not only this Hon'ble court had monitored the issue of migrant persons during the period of March and April in the above Writ Petition, when complete lockdown was in force, [the fact which has been complained off in the subject writ petition] but presently also, this Hon'ble court in *Suo Moto Writ Petition (C) NO. 6/2020* is actively considering and monitoring the relief operations which have been conducted to ensure that all migrants and stranded persons are provided with adequate facilities of transportation to their home towns or their desired destination.

It is respectfully submitted that in the above *Suo Moto Writ Petition* the Respondent No 4, Union of India, has once again placed its detailed status report highlighting the logistical, financial and other measures taken by the Central Government, through its various ministries to mitigate the problems faced by migrant workers before and after the modified guidelines of lockdown were put in place w.e.f. 17.5.2020. It is submitted that respondent in the aforesaid petition vide its status report has once again pointed out the steps

taken by it in coordination of various ministries like Ministry of Railways, Home, Health, Finance as well as the respective State Governments to mitigate the logistical, financial and other problems faced by the migrant labor.

13. I further respectfully state and submit that in so far as lapses on part of some officers of GNCTD were concerned, the same were duly noticed by MHA. It is stated that based on reports in Media including social media, Respondent No 4, Union of India came to know that the directions issued by the Chairperson, National Executive Committee regarding measures for containment of spread of COVID-19 had not been implemented in letter and spirit by the officers of GNCTD. Accordingly, the Hon'ble Lieutenant Governor of GNCTD vide his letter dated 29.03.2020, addressed to the Chief Minister, Delhi and copy endorsed to Union of India, duly pointed out lapses leading to assembly of large crowds at ISBT. A copy of the letter dated 29.03.2020 written by the Hon'ble Lieutenant Governor of GNCTD to the Chief Minister GNCTD is annexed hereto and marked as **Annexure R-11.**

14. Apart from above, it may also be pointed out that for the lapses which occurred between 27-03-2020 to 30-03-

2020, Ministry of Home Affairs has placed two of its senior officers belonging to IAS-AGMUT cadre under suspension and has further issued Show Cause Notices for initiating disciplinary proceedings against 5 of the senior most officials of the GNCTD for their lapses.

15. Thus in view of the aforesaid, it is respectfully submitted that in so far as Respondent No 4, Union of India, was concerned, it had taken adequate, robust, timely and proactive measures to remediate the situation which occurred due gathering of migrant labours during the initial phase of the lockdown. Accordingly, in view of the steps already taken by the Respondent No 4, Union of India, and duly monitored and considered by this Hon'ble Court in the above petitions, prayers (a) to (d) of the instant writ petition does not merit any further consideration by this Hon'ble Court.

16. In so far as the issue of assembly of people at Markaz in Nizamuddin is concerned, I respectfully state and submit that an FIR bearing FIR No.63/2020 dated 31.03.2020, in this regard has already been lodged and the investigation in the said case, by the Crime Branch of Delhi police, is already at an advanced state. It is stated that since the said issue is pending investigation therefore, as advised, the Respondent No 4, UOI is not divulging the details of the investigation in the present

affidavit. However, to satisfy the conscience of this Hon'ble court regarding the seriousness with which the said investigation is on-going, the Respondent No 4, Union of India , undertakes to file a comprehensive status report in a sealed cover for the perusal of this Hon'ble Court in case this Hon'ble court so desires.

17. However, without prejudice to the above, it is respectfully submitted that there was no negligence or delay in dealing with the said issue by the Respondent authorities. It is stated that as early as on 21.03.2020, the authorities of Markaz at Tablighi Jamat Headquarters were contacted by Delhi Police and one Mufti Shahzad was apprised of the situation arising out of the spread of COVID-19 on 21.03.2020 and was asked to take immediate action for preventing the spread of this disease. He was directed to send the foreigners back to their respective countries and other Indian persons to their respective native places. However, no one paid any heed to the lawful directions of Delhi Police and to the contrary, an audio recording purportedly by Maulana Mohd. Saad, head of the Tablighi Jamaat, was found to be in circulation on social media platforms in which the speaker was heard asking his followers to defy the lockdown and social distancing and to attend the religious gathering of the Markaz.

18. That in view of the complete lock-down declared by the Union of India ACP/Lajpat Nagar, New Delhi promulgated Prohibitory Orders under 144 Cr.P.C. on 24.03.2020, thereby restricting social / political / religious gathering in the area and to take safety measures by following social distancing for prevention/treatment i.e. Home Quarantine/Isolation etc.

19. Thereafter, the menace and hazard of COVID-19 viral infection during large gatherings was verbally conveyed to Maulana Mohd. Saad and the management of Markaz on several occasions, including during meetings held in the police station in this regard. The meeting in the police station was taken by the SHO on 24.03.2020 and was attended by members of Tablighi Jamat Markaz Management. However, Maulana Mohd. Saad and the Markaz Management did not inform any Health Department or other Government Agency about the huge gathering inside the Markaz. They deliberately, willfully, negligently and malignantly disobeyed the lawful directions promulgated in this regard. Written notices were also issued to Maulana Mohd. Saad and the Markaz Management. However, they refused to pay any heed. Thereafter, the premise was inspected by SDM/Defence

Colony on various dates, between 26.03.2020 and 30.03.2020.

20. I respectfully state and submit that during such inspection around 1300 persons from various States as well as Foreign Countries, were found residing in the premise without maintaining any social distance with each other. No one was seen following the directions such as use of facial mask, hand sanitizers etc. It is submitted that Maulana Mohd. Saad, others named above and the management of Markaz had deliberately, willfully, negligently and malignantly committed acts which were in direct contravention to the lawful directions of the Government and public servants as mentioned above.

21. I respectfully state and submit that Maulana Mohd. Saad, others had allowed a huge gathering to assemble inside a closed premise, over a protracted period of time, without any semblance of social distancing or provision of masks and sanitizers and have thereby caused a situation where a highly infectious disease such as Corona Virus (Covid-19) infection may spread and threaten the lives of the inmates and the general public at large.

22. That in view of the above, SHO Police Station Hazrat Nizamuddin requested the Crime Branch to take necessary action as per law against Maulana Mohd. Saad,

others of Markaz, Basti Hazrat Nizamuddin for their unlawful acts as mentioned above.

23. It is submitted that accordingly, a case vide FIR No. 63/2020 dated 31.03.2020 u/s 3 of The Epidemic Diseases Act, 1897, r/w section 51/58(1) of the Disaster Management Act, 2005 r/w sections 188/269/270/271/120B of the IPC was registered at PS. Crime Branch and investigation was taken up by the Crime Branch. During investigation, sec 14 (b) Foreigners Act r/w sections 308/304 IPC was also added to the case.

24. It is submitted that a large number of foreigners were found to have travelled to India, who took part in activities related to Tablighi Jamaat in Nizamuddin Markaz. More than 900 such foreigners have already joined the investigation in this case. The investigation has also revealed that most of these foreigners had arrived on a Tourist Visa or e-Visa.

25. It is respectfully submitted that on 2nd April, 2020, the Respondent No 4, UOI, through Union Ministry of Home Affairs (MHA) had blacklisted 960 foreigners, present in India on tourist visas, for their involvement in Tablighi Jamaat activities. Further, MHA had also directed DGPs of all concerned States/UTs and CP, Delhi Police to take necessary legal action against all such

violators, on priority, under relevant sections of the Foreigners Act, 1946 and Disaster Management Act, 2005.

26. It is submitted that according to Para 18 of Visa Manual, a Tourist Visa is granted to a foreigner whose sole objective of visiting India is recreation, sight-seeing, casual visit to meet friends or relatives, attending a short term yoga programme, short duration medical treatment including treatment under Indian systems of medicine etc. and no other purpose/ activity.

27. That according to Para 87, a Missionary Visa is granted to a foreigner whose sole objective of visiting India is Missionary work not involving proselytization. It is submitted that as per the Visa policy visa is not to be granted to preachers and evangelists who desire to come to India on propaganda campaigns, whether on their own or at the invitation of any organization in India.

28. It is respectfully submitted that the passports and copies of Visa Application Forms of these foreign Tablighi Jamaat participants clearly show that they had obtained Tourist Visa or eVisa to arrive in India on false pretext. It is submitted that all of these foreign nationals have been served with a Notice u/s 41.A CrPC and all of them have

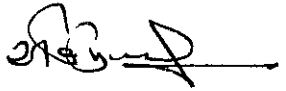
given an undertaking that they would not violate the conditions u/s 41(a) CRPC and abide by the terms of the notice. These foreigners were examined with the help of a Questionnaire. They have admitted in writing that they had arrived in India on a Tourist or eVisa.

29. It is submitted that in order to substantiate the legitimacy of their visit to India, passports of 723 accused foreigners and Identity Cards of 23 accused Nepal Nationals have been taken into possession through seizure/handing over memos. Some of the accused foreign nationals were unable to provide / produce their passports. Efforts are being made by the Delhi Police to account for all the passports in this regard.

30. It is submitted that the investigation in the aforesaid matter is being conducted on a day to day basis, in accordance with the mandate of law and all efforts are being made to finalize investigation and submit a report u/s 173 CrPC before the Hon'ble Court in a time bound manner.

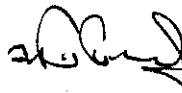
31. In view of the aforesaid facts and circumstances it is respectfully submitted that prayer (d) of the instant writ petition also does not merits any consideration by this Hon'ble Court. The present PIL petition therefore deserves

to be disposed of in view of the facts narrated hereinabove
in the present affidavit.


DEPONENT
(RAM VILAS PRASAD)
अवर सचिव
Under Secretary
रूप में
Ministry of Home Affairs
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

VERIFICATION

Verified at New Delhi on this 4th day of June, 2020
that the contents of this affidavit are true and correct to
the best of my knowledge, based on the official records
and nothing material has been concealed there from.


DEPONENT
(राम विलास प्रसाद)
(RAM VILAS PRASAD)
अवर सचिव
Under Secretary
रूप में
Ministry of Home Affairs
भारत सरकार, नई दिल्ली
Govt. of India, New Delhi

IN THE SUPREME COURT OF INDIA

W.P (Civil) Dy No 10866 OF 2020

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.....Respondent (s)

VAKALATNAMA

The President of India do hereby appoint and retain Shri B V Balaram Das, Advocate for the Supreme Court for the aforesaid ~~Petitioner/Appellant/Respondent~~ to act and appear in the above Petition/Appeal and on behalf of the said ~~Petitioner/Appellant/Respondent~~ to conduct and prosecute the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in Taxation and application for review, to file and obtain return of documents and to deposit and receive to respond him to take all necessary steps on behalf of the said ~~Petitioner/Appellant/Respondent~~ in the above matter. The president of India agrees to rectify all acts done by the aforesaid Advocate in pursuance of this Authority.

IN WITNESS WHEREOF these presents are duly executed by the Secretary to the Government of India.

Accepted & Identified.



(Ram Vilas Premi)
Respondent(s)

MEMO OF APPEARANCE

Advocate on Record
Supreme Court of India
Central Agency Section

To,

The Registrar,
Supreme Court of India,
New Delhi.

Sir,

Please enter my appearance for above-named Petitioner (s) – Defendant(s)/- Opposite Party – Respondent(s) – Appellant (s) – in the above mentioned Petition-Case-Appeal-Matter.

Yours faithfully,

Advocate, Supreme Court of India
Central Agency Section