

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

WRIT PETITION (CIVIL) NO. OF 2020

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:-

Supreme Court Bar Clerks' Association
Through its Secretary
Having office at
Ground Floor, C.K. Daphtary Block,
Lawyers Chamber, Tilak Lane,
Supreme Court of India,
New Delhi-110001

... PETITIONER

VERSUS

1. Union of India
Through Secretary,
Ministry of Home Affairs
Government of India,
North Block
New Delhi-110001
2. Union of India
Through Secretary,
Ministry of Law and Justice
Government of India,
4th Floor, A-Wing, Shastri Bhawan
New Delhi-110001

may deem fit directing the Respondents to disburse a sum of Rs. 15, 000/- per month to the Members of the Petitioner Association from the month of June 2020 till normalcy is restored in functioning of this Hon'ble Court.

2. The Petitioner states that the Petitioner has not filed any other Writ Petition before this Hon'ble Court or before any High Court or before any other courts or any authority, seeking the same and/ or similar relief as prayed for by the Petitioner in this Writ Petition.
3. The Petitioner is directly approaching this Hon'ble Court invoking the extra ordinary jurisdiction of this Hon'ble Court under Article 32 of the Constitution as there is a violation of the Article 21 of the Constitution of the members of the Petitioner Association.

4. The Petitioner association is a registered association under Societies Registration Act bearing registration no. 3970/1968-1969. Copy of registration certificate is annexed as **Annexure P1**. (pg.
5. The Petitioner Association was set up in the year 1968-1969 with the following aims and objectives [We have to put detail). **Copy of Resolution dated 13.05.2020 passed by the Petitioner Association is annexed herewith as Annexure P2.** (pg.
6. As of 31.03.2020, total membership of the Petitioner Association is the members of the Petitioner Association are all clerks, who are working in the offices of the advocates of this Hon'ble Court. The members of the Petitioner Association assist the Ld. Advocates in filing cases before the Registry of this Hon'ble Court, curing the defects, obtaining certified copies of judgments, assisting the Ld. Advocates with

books and files during the hearings and office work. Needless to mention that members Petitioner Association perform a vital function in the justice dispensation system of this Hon'ble Court.

7. Thoughts, a number of clerks are in the employment of the advocates, a large proportion of the income of the members of the Petitioner Association is directly linked to the filing of cases.
8. However, since 24h March, 2020, after the National Lock Down was declared by the Government of India, the clerks of this Hon'ble Court has been facing severe financial crunch. Due to the fact that for last 2 months hardly any case was filed. The income which was generated due to filing of cases has completely disappeared. Most of the members of the Petitioner Association had very little or no savings and, therefore, only after a few days of the lock down

started suffering financially. In fact, the advocates themselves lost their earnings and after initial support in the month of April, 2020, some are unable to pay the monthly salary.

9. Pertinently, the members of the Petitioner Association have received no financial aid or support from their respective States and have also not been covered under any specific scheme or Yojna as formulated by the Union. The Union had announced a 20 crore financial aid pack in the month of May, which covers small scale industries, migrant workers and other financially distressed groups of persons, however, no such scheme has been formulated for the members of the Petitioner Association and other similarly placed persons, in the profession of "Clerk", which is prevalent all over India. These members are an integral and indispensable part of our legal

system and their survival must be given utmost importance.

10. The members of the Petitioner Association appealed before individual practitioners and the AOR group and a sum of Rs. 1,25,000/- was received by a few members of the Petitioner Association at Rs. 5,000/- each, which was distributed amongst some of the needy members of the Petitioner Association. Copy of the payments made to various clerks in the month of April and May, 2020 is annexed herewith as **Annexure P4**. [Pg.

11. The Petitioner Association was hopeful that normal functioning of the Courts would resume in the 1st week of June, 2020, when lock down was lifted. However, even till today, there is no work for most of the clerks. In fact, a number of clerks cannot even travel to Delhi since they live in satellite town

like NOIDA, Faridabad, Ghaziabad etc. In such circumstances, when large number of clerks are facing livelihood issues and there is no possibility of normalcy being restored in the near future, the Petitioner Association on behalf of its members / clerks is approaching this Hon'ble Court having no option and no other remedy.

12. The Hon'ble High Court, New Delhi, considered the same issue as raised herein in W.P. (C) No. 3695 of 2020. The Hon'ble High Court vide Order dated 23.06.2020 put up the said matter for further consideration on 01.07.2020. A true copy of the Order dated 23.06.2020 passed by this Hon'ble Court in W.P. (C) No. 3695 of 2020 is annexed herewith and marked as **Annexure P5**.

GROUND S

A. Because the respondent/Union of India is under a constitutional obligation under Art 21 of the Constitution of India to pay compensation to the Advocate's clerks because, their present miseries from loss of income have arisen only due to the lockdown ordered by the Union Govt under the Disaster management Act of 2005. The Union Govt owes a duty of care to both in protecting the health of people at large and as well as livelihood of every individual or citizen including the Advocate's clerks represented by the petitioner association. The health of people cannot be protected by causing uncompensated miseries to individuals particularly the low income people like the Advocate's clerks. The Sec 11 of disaster management act of 2005 contemplates for framing of national plan to redress these grievances. But no such plan has been framed.

B. Because the prevailing situation in the country and more particularly in Delhi) due to outbreak of Covid - 19 has led to deprivation of livelihood of members of the Petitioner Association because there is no regular filing or other judicial work transacted in this Hon'ble Court since 25.03.2020. Only some urgent matters are filed. Due to the fact that the clerks helped the lawyers in filing and it was the major source of livelihood, the members of the Petitioner Association are totally deprived of their livelihood. Some of the clerks, baring a few, have not even being paid the monthly wage. Since the major source of livelihood, namely filing of cases has also been taken away, consequently, most of the clerks are on the verge of penury having absolutely no money to even look after basic facilities, likely health and education of children and even arranging food for their family members. Thus, there is grave violation of the Article

21 of the Constitution because of the action / inaction of the Respondents where no alternative has been provided to the persons like the members of the Petitioner Association.

- C. Because most of the members of the Petitioner Association are from outside Delhi as well, for this Association expands at National level and is not a State level Association as it serves in the functioning of this Hon'ble Court, which is the Apex court of our Country. There are members from Assam, Orissa, Kerala, Uttarakhand etc., from India, who are suffering severe hardship which is also being suffered by their aged parents, wife, children etc. There is no hope that normalcy would be restored in the near future and in such a situation, the respondent ought to have taken steps for protecting the right to life and livelihood of the members of the Petitioner Association. Thus, there is violation of Article 21 of

the Constitution by deprivation of the livelihood of the members of the Petitioner Association and if no action is taken, large number of clerks and their family members would be on verge of death.

- D. Because the Respondents herein are under a constitutional obligation under Art 21 of the Constitution of India to pay compensation to the Advocate's clerks because, their present miseries from loss of income have arisen only due to the lockdown ordered by the Union Govt under the Disaster management Act of 2005. The Union Govt owes a duty of care to both in protecting the health of people at large and as well as livelihood of every individual or citizen including the Advocate's clerks represented by the petitioner association. The health of people cannot be protected by causing uncompensated miseries to individuals particularly the low income people like the Advocate's clerks. The

Sec 11 of disaster management act of 2005 contemplates for framing of national plan to redress these grievances. But no such plan has been framed.

- E. Because the Petitioner Association has tried every means of raising finances for its members by raising a plea / appeal to a few Advocates, but that also did not result in much help as it was in an unofficial manner. The members of the Petitioner Association were hopeful of restoring of normalcy by 01.06.2020, when lock down was lifted, but as per present situation in Delhi and nearby places, there is no possibility of normalcy being restored in the near future to the same level as prior to lock down and thus hardship of the members of the Petitioner Association is likely to continue for at least 2-3 months (if not more).

- F. Because there has been a duty cast upon the Respondent to raise the standard of living of citizens under Article 47 of the Constitution. Further, Article 38 of the Constitution mandates the State to secure a social order for promotion of welfare of the people. Under Article 39 (a) of Constitution, the State is obliged to secure adequate means of livelihood to all citizens. All these aspects have not been taken into account by the Respondents while issuing notification of lock down and in the present circumstances when due to social distancing measures, it is not possible to hold open court hearings.
- G. Because in this view of the matter, Having no option, or any other method of redress and due to violation of Article 21 of the Constitution, the Petitioner Association is approaching this Hon'ble Court by way of the present Writ Petition for the reliefs prayed herein.

PRAYER

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

- A) Issue a writ of mandamus or any other writ or direction thereby directing the Respondents to disburse a sum of at least Rs.15,000 / as "Maintenance compensation", per month to members of Petitioner Association from the month of June, 2020 onwards till the normalcy in the court proceedings is restored, and/or;

- B) Issue a writ of mandamus or any other writ or direction thereby directing the Respondents to frame a National scheme under Sec 11 of the Disaster management Act of 2005, whereby the terms and amount for ex-gratia compensation must be clearly specified, and/or;

C) Pass such further orders that this Hon'ble Court may feel in the interests of justice and circumstances of the case.

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

Settled By:

Mr. Mohan V. Katarki,
Senior Advocate

Drawn by

Mr. Gaurav Agarwal, Advocate
Ms. Divyangna Malik, Advocate

Filed by:

Mr. Deepak Prakash,
Advocate-on-Record

Filed on:

Place : New Delhi