

**IN THE SUPREME COURT OF INDIA**  
**EXTRA-ORDINARY ORIGINAL JURISDICTION**  
**Writ Petition No \_\_\_\_\_/2020 (P.I.L.)**  
**PUBLIC INTEREST LITIGATION**

[Petition under Article 32 of the Constitution of India  
r/w Order XXXVII of the Supreme Court Rules, 2013]

**IN THE MATTER OF:**

1. ALL INDIA UNITED ..PETITIONER  
DEMOCRATIC FRONT (AIUDF) NO. 1  
Represented By Its General  
Secretray- MD. AMINUL ISLAM

**VERSUS**

- 1.** UNION OF INDIA ...RESPONDENT  
THROUGH SECRETARY TO NO.1  
THE GOVERNMENT OF INDIA,  
MINISTRY OF LAW AND  
JUSTICE, NEW DELHI -  
110001
- 2.** THE DELIMITATION ...RESPONDENT  
COMMISSION THROUGH NO.2  
SECRETARY, NIRVACHAN  
SADAN, ASHOKA ROAD, NEW  
DELHI PIN-110001
- 3.** THE STATE OF ASSAM ...RESPONDENT

THROUGH THE CHIEF NO. 3  
SECRETARY TO THE  
GOVERNMENT OF ASSAM  
DISPUR, GUWAHATI, ASSAM –  
781006

TO

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

**THE PETITIONERS ABOVE NAMED  
RESPECTFULLY SUBMIT THIS WRIT PETITION  
UNDER ARTICLE 32 OF THE CONSTITUTION OF  
INDIA FOR ISSUEANCE OF  
MANDAMUS/CERTIORARI OR ANY OTHER  
WRIT, ORDER OR DIRECTION QUASHING  
ORDER NO. S.O. 903(E), DATED 28.02.2020  
PUBLISHED BY MINISTRY OF LAW AND  
JUSTICE AS UNCONSTITUTIONAL ON ACCOUNT  
OF BEING VIOLATIVE OF THE FUNDAMENTAL**

**RIGHTS ENUMERATED UNDER ARTICLE 14, 19  
AND 21 OF THE PART-III OF THE  
CONSTITUTION OF INDIA.**

THE WRIT PETITION OF THE PETITIONER MOST  
RESPECTFULLY SHOWETH:

**1. PARTICULAR OF THE CAUSE/ORDER  
AGAINST WHICH THE PETITION IS MADE:**

1.1 That The petitioner herein, have preferred the instant petition under Article 32 of the Constitution of India challenging the promulgation of the Presidential Order bearing No. S.O. 903 (E) dated 28<sup>th</sup> February 2020 [hereinafter referred to as the ‘impugned order’],

**1.2 SUBJECT MATTER IN BRIEF**

Vide the Presidential Order bearing No. S.O. 903 (E) dated 28<sup>th</sup> February 2020 an earlier Notification number S.O. 283 (E) dated 8<sup>th</sup> February 2008 [Hereinafter referred to as “S.O.

283(E)”, deferring the process of delimitation for the State of Assam, has been rescinded and it has been further decided to resume the process of delimitation of the Assembly and Parliamentary constituencies for the State of Assam.

- 1.3 The petitioners herein submit that the decision to conduct the pending process of delimitation of assembly and parliamentary constituencies, is not only arbitrary and hasty decision but stands contrary to the very idea behind conducting delimitation inasmuch as the present delimitation exercise is sought to be conducted on the basis of Census 2001, while Census 2011 has already been conducted and Census 2021 is underway.

- 1.4 Apart from being unjustified with regard to the conclusion of the NRC preparation for the State

of Assam, one of the reasons why the same was deferred in 2008 was that 2001 census was outdated.

- 1.5 The petitioners submit that the impugned order is liable to be quashed as being in violation of Article 14, 19 and Article 21 of the Constitution of India, which guarantee equality, the right to life and freedom of speech and expression respectively.
- 1.6 The impugned order seeks to resume an exercise of delimitation, ideally to be conducted on the most recent census, but here it is based on stale and old figures of Census 2001
- 1.7 Since the reasons as contained in the notification number S.O. 283(E), are still prevailing and the impugned order fails to provide any reasonable basis for the change in

circumstances, as existed prior to deferment of delimitation in the State of Assam.

## **2. THE ANTECEDENTS OF THE PETITIONER:**

2.1 Petitioner No. 1, All India United Democratic Front (AIUDF) was formed to ventilate the grievances of the suppressed sections of the society and the under privileged minority groups in Assam in order to protect their legitimate democratic rights and to empower these segments. The said political party was launched in Assam on 2<sup>nd</sup> of October, 2005 but later on the Plaintiff re-launched the said political party in other States of India through a Press-meet in New Delhi on 2<sup>nd</sup> of February, 2009. All India United Democratic Front which altogether won 10 seats in its maiden electoral fight in 2006. In the subsequent election to the Assam Legislative Assembly which was held in the year, 2011, the said party, All India United Democratic Front increased its strength in the Assam Legislative Assembly by winning 18 out of 126 seats in the Assam Legislative Assembly and has become the principal opposition party

in Assam. It is also relevant herein to mention that in 2014 Parliamentary Elections, 3 of the Members of All India United Democratic Front were elected as Members of Parliament. Now in Assam legislative Assembly AIUDF got 14 members and the said AIUDF is represented by its lone member in the parliament.

2.2. Petitioner No.1 being a political party has provided letter of recognition dated 30.05.2006 bearing No. 56/Review/2006/J.S.III/3829 and letter of approval dated 12.08.2009 bearing No. 56/139/2007/JS-III/PPS-II/685 issued by the Election Commission of India. Phone No. of Petitioner No.1 is

2.3 That Petitioner No.2



2.4. The present petition under Article 32 of the Constitution of India is being filed by way of public interest litigation. The Petitioner has no personal interest, or private/oblique motive in filling the instant petition except to the extent stated at paragraph 7 of this Writ Petition.

2.5 That the petitioner is filing the present petition on his own and not at the instance of someone else. The litigation cost, including the advocate's fee and the travelling expense of the lawyers, if any, are being borne by the petitioner himself.

3. **BRIEF FACTS OF THE CASE:**

3.1 That for the first time after independence, Delimitation of Assembly and Parliamentary Constituencies was resorted to by forming a

Delimitation Commission under the  
Delimitation Commission Act, 1952.

Delimitation literally means the act or process of fixing limits or boundaries of territorial constituencies in a country or a province having a legislative body. The basis for the delimitation exercise in 1952 was the population figures from the then recent Census of 1951.

3.2 That Another delimitation commission was formed pursuant to the Delimitation Commission Act, 1962 for delimiting the Assembly and Parliamentary Constituencies in India. The basis for the delimitation exercise in 1963 was the population figures from the 1961 Census.

3.3 That another delimitation commission was formed pursuant to the Delimitation Act, 1972 for delimiting the Assembly and Parliamentary

Constituencies in India. The basis for the delimitation exercise in 1973 was the population figures from the 1971 Census.

- 3.4 That the Delimitation Act, 2002 was enacted for the formation of another Delimitation Commission that had been tasked with delimiting the parliamentary and assembly constituencies for the entire country. As per the Delimitation Act, 2002, the basis for conducting delimitation was the most recent census then i.e., Census 2001.

Copy of the Delimitation Act, 2002, as amended till date, has been marked and annexed herewith as **Annexure No.P-1** at page 49 to 65.

- 3.5 That subsequent to the formation of the delimitation commission, P.I.L. No. 62 of 2007 came to be filed before the Hon'ble Gauhati High Court, which was referred to a larger

bench of five judges of the Hon'ble High Court. Vide order dated 16.08.2007, the 5 judge bench of the Hon'ble High Court had noted the following concerns, with regard to delimitation in the State of Assam based on the 2001 Census:

*“In so far as the State of Assam is concerned, the main grievance of the petitioners appears to be identification of what is contended, on a definite basis in view of the judgment of the Supreme Court in Sarbananda Sonowal’s case reported in (2005) 5 SCC 665, to be a large number of illegal migrants who have been covered by the Census Report of the year 2001. The aforesaid question is inextricably linked to the process of delimitation of the territorial boundaries of the constituencies as a whole with ultimate result that such illegal migrants in the State may not be*

*permitted to participate in the electoral process. The submission made by the learned counsels for the parties are capable of raising hypothetical question of exclusion of a large number of a segment of the population constituting the State Assembly from the electoral process. Permitting such illegal migrants to participate in the electoral process of the country would be contrary to the letter and spirit of the Constitution and the laws and, therefore, the exercise of delimitation process which is carried on the basis of the data published by the Census Commission without first determining the citizenship in question would be inconsistent with the Constitutional rights of the citizens.”*

Typed copy of the order dated 16.08.2007 passed by the Hon’ble Gauhati High Court, Guwahati in P.I.L.

No. 62 of 2007 has been marked and annexed herewith as **Annexure No.P-2** at page 66 to 73.

3.6 That once the Delimitation Commission had given its report, the process of delimitation for the State of Assam was deferred by the issuance of Notification No. S.O. 283(E) by the President under Section 10A of the Delimitation Act, 2002. The decision was taken, *inter alia*, in light of the aggravated law and order situation in Assam, non-availability of the NRC, Assam, etc.

Copy of Notification Number S.O. 283(E) dated 08.02.2008 published by the Ministry of Law and Justice has been marked and annexed herewith as **Annexure No.P-3** at page 74 to 78.

3.7 That the reasons stated in the Notification number S.O. 283 (E) dated 08.02.2008, deferring the process of delimitation for the State of Assam, are by and large still in

existence and it is submitted that the present decision for resuming the exercise of delimitation in the State, issued vide the Impugned Order No. S.O. 903 (E) dated 28.02.2020 (Annexure-2), is devoid of any reasons justifying the change in situations since 2008.

3.8 That to summarise, the decision for deferment of delimitation exercise for the State of Assam had been taken, inter alia, citing the following reasons:

- (a) That the delimitation work was stayed pursuant to the orders of the Gauhati High Court in PIL No. 62/2007 (Shri Ram Prasad Sarmah Vs. UOI) and *"resumption of delimitation by the Delimitation Commission consequent to the Hon'ble Supreme Court's stay on the order of the Guwahati High Court (in the*

*aforsaid petition) is likely to arouse the sentiments of the people living in the State of Assam due to their apprehension that the ongoing delimitation in many electoral constituencies may result in break-up of affiliation between public and its representatives, change of boundaries thereof, which may cause alienation of different groups of tribes";*

- (b) That delimitation exercise should be postponed *"till such time as the National Register of Citizens (NRC) is updated to reflect the true population configuration in the State";*
- (c) That the process of delimitation in Assam had evoked strong opposition from all concerned in the State, with various organisations strongly opposing the delimitation exercise, which had given apprehensions with regard to break down



of public order in the State of Assam. It was stated that *"issues in regard to delimitation of constituencies in the State of Assam are very serious and sensitive in nature and may give rise to break down of public order on account of serious law and order situation in different districts and more, particularly, in the areas which are disturbed areas or very sensitive areas"*;

- (d) That the Central Government had declared the entire State of Assam as *"disturbed area"*, under Section 3 of the Armed Forces (Special Powers) Act, 1958;
- (e) That the National Democratic Front of Bodoland (NDFB) and the United Liberation Front of Assam (ULFA), declared as unlawful associations under the Unlawful Activities (Prevention) Act, 1976, were *"likely to exploit the*

*sentiments of the local people, and create large scale violence and disruption of the public order, in furtherance of their agenda”;*

- (f) That “*strong objections*” had been lodged by “*the legislators, parliamentarians, all political parties, Panchayats and public leaders on the proposed delimitation of Assembly and Parliamentary constituencies*”;
- (g) That the State Government was “*of the view that the delimitation process should be kept in abeyance and has requested for the maintenance of status quo in the interest of peaceful co-existence of people of the State and its territorial integrity and the maintenance of public order.*”;
- (h) That, due to the outbreak of COVID19 pandemic, high alert has been declared by the Centre and States as well as Union Territories. It is relevant to mention here that the Ministry

of Home Affairs, Government of India issued Notification dated 25.03.2020 thereby deferred the process of First Phase of Census, 2021 as well as National Population Register (NPR) scheduled to be started from 01.04.2020 due to outbreak of COVID19 pandemic. Considering these facts, it is evident that the work of delimitation process will definitely be affected by COVID19 pandemic.

3.9 That as the NRC is being prepared on the basis of Section 6A of the Citizenship Act, 1955, it must also be pointed out that the said provision, added to the Citizenship Act in 1985, is also challenged before the Hon'ble Supreme Court of India, which has referred the challenge to Section 6A of the Citizenship Act, 1955, to a larger bench vide order dated 17.12.2014 passed in Writ Petition (Civil) No. 562 of 2012.

Copy of judgment dated 17.12.2014 passed in Writ Petition (Civil) No. 562 of 2012 has been marked and annexed herewith as **Annexure No.P-4** at page 79 to 181

3.10 That also pertinent to note is that vide order dated 30.08.2017, PIL No. 62/2007, initially filed seeking directions deferring the delimitation exercise, has been disposed of as infructuous in light of the deferment of the delimitation process in the State of Assam pursuant to the aforesaid Notification number S.O. 283 (E) dated 08.02.2008. The retraction of the aforesaid 2008 order of delimitation has brought the situation back to as it were before 08.02.2008.

Copy of the order dated 30.08.2017 passed by the Gauhati High Court in PIL No. 62/2007 has been

marked and annexed herewith as **Annexure No.P-5** at page 182 to 184.

3.11 That the State of Assam, ever since the introduction of Citizenship (Amendment) Bill, 2016 till the enactment of the Citizenship (Amendment) Act, 2019 on 12.12.2019, has seen widespread and violent protests, bandhs, curfews etc. leading to loss of not only public and private property but also of the precious lives of Indian Citizens.

3.12 That the situation in Assam had grown so out of control that the entire State of Assam was declared as a “*disturbed area*” for the purposes of the Armed Forces (Special Powers) Act, 1958 with effect from 28.08.2019, for a period of six months. This period of six months had come to an end on the very day that the aforesaid Order No. S.O. 903 (E) came to be issued on

28.02.2020 rescinding the deferment of delimitation and deciding to conduct the same. Subsequently, as per power conferred under Section.3 of the Armed Forces (Special Powers) Act, 1958, the Government of Assam has declared the entire state of Assam as “Disturbed Area” up to 6 (six) months beyond 28.02.2020, unless withdrawn earlier.

**3.13 FACTS CONSTITUTION THE CAUSE OF ACTION:**

That vide the impugned order number S.O. 903(E) dated 28.02.2020, a decision was taken to rescind the aforesaid Notification S.O. 283(E) dated 08.02.2008 by means of which the exercise of delimiting the constituencies in Assam, as per the Delimitation Act, 2002, was deferred by the President of India citing a number of reasons, by and large still existing.

Copy of the order Number S.O. 903(E) dated 28.02.2020 issued by Ministry of Law and Justice has been marked and annexed herewith as **Annexure No.P-6** at page 185 to 187.

3.14 That the Ministry of Law and Justice, notified, through Notification No. S.O. 1015(E), dated 06.03.2020 the constitution of the Delimitation Commission for the purpose of delimiting assembly and parliamentary constituencies in the Union Territory of Jammu and Kashmir and the states of Assam, Arunachal Pradesh, Manipur and Nagaland.

Copy of the Notification No. S.O. 1015(E) dated 06.03.2020 published by the Ministry of Law and Justice constituting the Delimitation Commission has been marked and annexed herewith as **Annexure No.P-7** at page 188 to 190.

3.15 That two persons other than the present petitioners had approached this Hon'ble Court by way of filing a writ petition being WP(C) No.454/2020 challenging the ongoing process of delimitation in the state of Assam. The Hon'ble Court was pleased to issue notice upon the Respondents vide Order dated 27.05.2020.

Copy of the Order dated 27.05.2020 passed by this Hon'ble Court has been marked and annexed herewith as **Annexure No.P-8** at page 191 to 192

#### **4. SOURCE OF INFORMATION:**

That all of the documents annexed with the present writ petition are in public domain.

#### **5. DETAILS OF REMEDIES EXHAUSTED:**

5.1. That in light of the urgency of the present issue and as the delimitation commission has already been constituted, the petitioners herein have



not preferred any representation before any government body or authorities concerned herein, as the remedy lies with this Hon'ble Court.

**6. NATURE AND EXTENT OF INJURY CAUSED OR LIKELY TO BE CAUSED TO THE PUBLIC:**

6.1 The Delimitation proposed to be carried will change the constituencies and will have an impact on the voting rights and preferences of large number of voters and candidates.

6.2 As the data relied upon for the proposed delimitation is outdated and because the atmosphere in the state of Assam at present, is not conducive for the said exercise, it is feared that many citizens may loose their right to vote if the exercise is carried out in the present scenario.

**7. NATURE AND EXTENT OF PERSONAL INTEREST, IF ANY, OF THE PETITIONERS.**

That the Petitioner No.1 being a political party in the State of Assam, is interested in the outcome of this petition to the extent that the Delimitation proposed to be carried will change the constituencies and will have an impact on the voting rights and preferences of large number of voters and candidates. Therefore, the interest of the petitioners herein is to ensure that the Delimitation should be done in a transparent, fair and reasonable manner and in accordance with the letter and spirit of the law and established practice. The petitioners fear that, this is not possible in the present facts and circumstances prevalent in the State of Assam.

**8. Details regarding any civil, criminal or revenue litigation, involving the petitioner or any of the petitioners, which has or could have a legal nexus with the issue(s) involved in the Public Interest Litigation:**

There is no civil, criminal, revenue or any litigation involving the petitioner which has or could have a legal nexus with the issues involved in the Writ Petition.

**9. WHETHER ISSUE WAS RAISED EARLIER; IF SO, WHAT RESULT:**

9.1 That the petitioner has not preferred any other petition before this Hon'ble Court or any other Court seeking the reliefs as have been sought in the present petition. And that the issue raised herein is neither dealt with nor decided by a Court of law at the instance of the petitioner.

9.2 That two persons, not being the present petitioners had approached this Hon'ble Court by way of filing a writ petition being WP(C) No.454/2020 challenging the ongoing process of delimitation in the state of Assam. This Hon'ble Court was pleased to issue notice to the Respondents vide Order dated 27.05.2020. The said matter is still pending.

Copy of the Order dated 27.05.2020 passed by this Hon'ble Court has been marked and annexed herewith as **Annexure No.P-8** at page 191 to 192.

10. **WHETHER CONCERNED GOVERNMENT AUTHORITY WAS MOVED FOR RELIEF(S) SOUGHT IN THE PETITION AND IF SO, WITH WHAT RESULT:**

That in light of the urgency of the present issue and as the delimitation commission has

already been constituted, the petitioners herein have not preferred any representation before any government body or authority concerned, for the reliefs sought herein.

**11. GROUNDS**

That the Petitioner has preferred the present petition on the following, amongst other, grounds:

- A. BECAUSE the decision to conduct the pending process of delimitation of assembly and parliamentary constituencies, is not only an arbitrary and hasty decision but stands contrary to the very idea behind conducting delimitation, having proposed to be conducted not on the basis of the population figures obtained from the most recent Census but rather on the basis of stale figures of 2001 Census. The petitioners reason that while vide

the aforesaid S.O. 283(E) the process of delimiting the constituencies, in the State of Assam, had been deferred, the same is being resumed almost 10 years later and so far, in absence of an amendment to the Delimitation Act, 2002, will be conducted on the basis of the population figures as emerging in the Census of 2001, which in itself is a ground sufficient enough to quash the impugned order.

B. BECAUSE the very purpose of conducting delimitation is to ascertain an equal number of division of the electorates in the various assembly and parliamentary constituencies and the same has been historically based on the population figures as obtained from the most recent Census. However, by the promulgation of the impugned order, this very purpose behind delimitation has become redundant, as the most

recent population figures, can in no manner be gathered from a census conducted 20 years ago. Not only, an older Census data from 2001 is proposed to be used as the basis for delimitation in the State of Assam, the haste is evident inasmuch as the most recent population figures will be available from the Census of 2021, the preparations whereof are already underway.

- C. BECAUSE a five judge bench of the Hon'ble Gauhati High Court had, vide order dated 16.08.2007 passed in P.I.L. No. 62 of 2007, had noted its concerns with regard to the 2001 census being used as the basis for delimitation, in the following words:

*“Insofar as the State of Assam is concerned, the main grievance of the petitioners appears to be identification of what is contended, on a definite*

*basis in view of the judgment of the Supreme Court in SarbanandaSonowal's case reported in (2005) 5 SCC 665, to be a large number of illegal migrants who have been covered by the Census Report of the year 2001. The aforesaid question is inextricably linked to the process of delimitation of the territorial boundaries of the constituencies as a whole with ultimate result that such illegal migrants in the State may not be permitted to participate in the electoral process. The submission made by the learned counsels for the parties are capable of raising hypothetical question of exclusion of a large number of a segment of the population constituting the State Assembly from the electoral process. Permitting such illegal migrants to participate in the electoral process of the country would be contrary to the letter and spirit of the Constitution and the laws and, therefore, the exercise of de-*



limitation process which is carried on the basis of the data published by the Census Commission without first determining the citizenship in question would be inconsistent with the Constitutional rights of the citizens.”

(Emphasis Supplied)

- D. BECAUSE one of the reasons for deferring delimitation in the State of Assam, as stated aforesaid, was the preparation of the National Register of Citizens (NRC), Assam. It must be noted that while the NRC, Assam is being prepared under the orders of this Hon’ble Court, the same is yet to be finalised. While the results of NRC had been published by the State Co-ordinator, NRC, Assam on 31.08.2019, the process with regard to more than 19 lakh persons, excluded therefrom, is underway. Moreover, as the NRC is being prepared on the

basis of Section 6A of the Citizenship Act, 1955, it must also be pointed out that the said provision, added to the Citizenship Act in 1985, is also challenged before the Hon'ble Supreme Court of India, which has referred the challenge to Section 6A of the Citizenship Act, 1955, to a larger bench vide order dated 17.12.2014 passed in Writ Petition (Civil) No. 562 of 2012.

- E. BECAUSE the very purpose of the delimitation exercise is to alter the boundaries of respective constituencies as per the latest census figures so as to reflect an equal and proportionate representation. It would not only be expedient but more practical to defer the present delimitation process until the finalisation of NRC, Assam as well as the Census-2021, so that the most recent and correct figures may form the basis for delimitation. In this context,

it is pertinent to note here that the delimitation exercise being conducted in the Union Territory of Jammu & Kashmir will be taken up by using the Census-2011 instead of Census-2001, as provided under the Jammu & Kashmir Re-organisation Act, 2019 whereas in Assam the Census-2001 is to be used for same reference.

- F. BECAUSE the process of delimitation in Assam, in 2008, had evoked strong opposition from all concerned in the State, with various organisations strongly opposing the delimitation exercise which had given apprehensions with regard to break down of public order in the State of Assam. It was considered that the issues in regard to delimitation of constituencies in the State of Assam were *very serious and sensitive in nature and may give rise to break down of public order on account of*

*serious law and order situation in different districts and more particularly, in the areas which are disturbed areas or very sensitive areas.*

G. BECAUSE the reasons that had prevailed during the previous decision for deferment of the delimitation process vide Notification No. S.O. 283 (E) dated 08.02.2008 still exist with same force and therefore the decision to conduct a fresh delimitation of Assembly and Parliamentary Constituencies in Assam and to rescind the aforesaid Notification No. S.O. 283 (E) dated 08.02.2008 is an arbitrary decision by overlooking the totality of facts and the circumstances prevailing in the State of Assam. The Impugned Order No. S.O. 903 (E) dated 28.02.2020, has stated that there is a significant improvement in the security

situation in the State of Assam by citing reduction in insurgency incidents and improvement in law and order, making the situation “*conducive*” for carrying out the delimitation exercise which was deferred in 2008. But the same has not accounted for the CAA protests. The State of Assam and other north eastern States have witnessed widespread opposition, protests, marches, violence, losses to public and private properties and deaths with injuries to hundreds during the anti-CAA agitations.

- H. BECAUSE the situation in Assam had grown so out of control that the entire State of Assam was declared as a “disturbed area” for the purposes of the Armed Forces (Special Powers) Act, 1958 with effect from 28.08.2019, for a period of six months. This period of six months had come to

an end on the very day that the impugned Order No. S.O. 903 (E) came to be issued rescinding the deferment of delimitation and deciding to conduct the same. The same flies on the face of the claim that the situation is now conducive for the process of delimitation.

- I. BECAUSE the constitutional validity of the Citizenship (Amendment) Act, 2019 remains pending before the Hon'ble Supreme Court of India (challenged in more than 160 petitions). The enactment of the same had already led to such wide scale protests, a decision to undertake a delimitation exercise in the State of Assam is bound to lead to more apprehensions in the minds of people, more opportunity to unlawful elements for exploiting such apprehensions and thereby leading to

disruption of public order which remains fragile in the State.

J. BECAUSE due to the outbreak of COVID19 pandemic, high alert has been declared by the Centre and States as well as Union Territories. It is relevant to mention here that the Ministry of Home Affairs, Government of India issued Notification dated 25.03.2020 thereby deferred the process of First Phase of Census, 2021 as well as National Population Register (NPR) scheduled to be started from 01.04.2020 due to outbreak of COVID19 pandemic. Considering these facts, it is evident that the work of delimitation process will definitely be affected by COVID19 pandemic.

## **12.GROUNDS FOR INTERIM RELIEF:**

12.1 As the data proposed to be relied upon for the proposed delimitation is outdated and because

the atmosphere in the state of Assam at present, is not conducive for the said exercise, it is feared that many citizens may lose their right to vote if the exercise is carried out in the present scenario.

12.2 Because the Delimitation proposed to be carried will change the constituencies and will have an impact on the voting rights and preferences of large number of voters and have great impact on candidates.

12.3 That Delimitation is a complex procedure impacts citizens rights to vote for their preferred candidates for a long time.

12.4 Unless the data is up-to-date, delimitation of constituencies and redrawing them will cause a large number of voters to be left out.



12.5 In the present situation in Assam, wherein the state had until recently been declared a “Disturbed Area”, such an exercise can not be conducted in a fair, transparent and reasonable manner.

12.6 Because there is no reason for the urgency shown on behalf of the respondents, that although the next census is due, the respondents prefer not to wait for the fresh data but instead insist on relying upon outdated data for delimitation.

12.7 Because if this exercise has a direct impact on the all the citizens of the State of Assam and if an election is held based on a flawed delimitation, it would be very difficult to reverse the damage that it will cause.

12.8 Because if the present exercise of delimitation of constituencies is stayed or postponed, no harm will be caused to the respondents.

13. That, in view of the aforesaid facts and circumstances and the grounds set out herein below, the petitioners have no other alternative but to approach this Hon'ble Court in order to challenge the *vires* of the impugned order number S.O. 903(E) dated 28.02.2020 published by the Ministry of Law and Justice.

14. That this petition is made bona-fide and for the ends of justice.

**15. MAIN PRAYER**

In the facts and circumstances of the case, as mentioned above, it is, therefore, most humbly prayed that this Hon'ble Court may be pleased to:

- A. Issue a writ of Mandamus/Certiorari or any other writ, order or direction quashing Order No. S.O. 903(E), dated 28.02.2020 published by Ministry of Law and Justice, and/or
- B. Direct the respondents to defer the exercise of delimitation in the State of Assam, promulgated vide the Impugned Order No. S.O. 903(E), until the Constitution Bench of the Hon'ble Supreme Court decides the pending petitions being WP(C) No.562/2012 and WP(C) No.311/2015 in respect of citizenship in the state of Assam, AND
- C. Direct the respondents to defer the exercise of delimitation in the State of Assam, promulgated vide the Impugned Order No. S.O. 903(E) dated 28.02.2020 published by Ministry of Law and Justice, until the NRC exercise is completed in the state of Assam, AND

- D. Direct the respondents to defer the exercise of delimitation in the State of Assam, promulgated vide the Impugned Order No. S.O. 903(E) dated 28.02.2020 published by Ministry of Law and Justice, until the State of Assam is relived from “Disturbed Area” by the Competent Authority and ill effect of the COVID19 pandemic is over, and/or
- E. Pass any order or direction as this Hon’ble Court may deem fit and proper in the facts and circumstances of the present appeal.

**16. INTERIM RELIEF.**

In the facts and circumstances of the case, as mentioned above, the petitioners herein, most humbly pray that this Hon’ble Court may be pleased to grant the following ex-parte ad-interim relief pending the final disposal of this case.-

16.1 Stay the operation of Order No. S.O. 903(E), dated 28.02.2020 published by Ministry of Law and Justice, and/or

16.2 Direct the respondents to defer the exercise of delimitation in the State of Assam, promulgated vide the Impugned Order No. S.O. 903(E), until the Constitution Bench of the Hon'ble Supreme Court decides the pending petitions being WP(C) No.562/2012 and WP(C) No.311/2015 in respect of citizenship in the state of Assam, AND

16.3. Direct the respondents to defer the exercise of delimitation in the State of Assam, promulgated vide the Impugned Order No. S.O. 903(E) dated 28.02.2020 published by Ministry of Law and Justice, until the NRC exercise is completed in the state of Assam, AND

16.4. Direct the respondents to defer the exercise of delimitation in the State of Assam, promulgated vide the Impugned Order No. S.O. 903(E) dated 28.02.2020 published by Ministry of Law and Justice, until the State of Assam is relived from “Disturbed Area” by the Competent Authority and ill effect of the COVID19 pandemic is over.

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

**DRAWN BY:**

Mustafa Khaddam  
Hussain &  
Abdus Subur Tapadar  
Advocates

**FILED BY:**

Mr. Ajit Pravin Wagh

**Drawn On:** 30.05.2020

**(ADVOCATE ON RECORD**

**Filed on:** 04.06.2020

**FOR PETITIONERS)**