

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO OF 2020

(WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION)

IN THE MATTER OF:

ARCHANA DWIVEDI

...PETITIONER

VERSES

UNION OF INDIA & OTHERS

...RESPONDENTS

PAPER BOOK

[FOR INDEX KINDLY SEE INSIDE]

(ADVOCATE FOR PETITIONER: ASHWANI KUMAR DUBEY)

INDEX OF RECORD OF PROCEEDINGS		
Sr. No.	Date of Record of Proceedings	Page
1		
2		
3		
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		

INDEX				
S. NO	Particulars of the documents	Page of part to which it belongs		Remark
		Part-I(Contents of Paper Book)	PartII(Contents of file alone)	
(i)	(ii)	(iii)	(iv)	(v)
1	Listing Performa	A-A1	A-A1	
2	Cover Page- Paper Book		A-2	
3	Record of Proceedings		A-3	
4	Defect List		A-4	
5	Note Sheet		NS1	
6	Synopsis & List of Dates	B-J		
7	Writ Petition & Affidavit	1-12		
8	Annexure P-1: Order of the High Court of Judicature at Allahabad dated 02.03.2017	13-69		
9	Annexure P-2: Order of the High Court of Judicature at Allahabad dated 02.05.2017	70		
10	Annexure P-3: Order of the High Court of Judicature at Allahabad dated 09.05.2017	71		
11	Annexure P-4: Order of the High Court of Judicature at Allahabad dated 06.07.2017	72		
12	Annexure P-5: Order of the High Court of Judicature at Allahabad dated 21.07.2017	73		
13	Annexure P-6: Order of the High Court of Judicature at Allahabad dated 13.10.2017	74		
14	F/M		75	
15	V/A		76	
16	I.D. Proof		77	

PERFORMA FOR FIRST LISTING

Section:

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

- Central Act: Constitution of India
- Section: Articles 21 of the Constitution
- Central Rule: N/A
- Rule No: N/A
- State Act: N/A
- Section: N/A
- State Rule: N/A
- Rule No: N/A
- Impugned Interim Order: N/A
- Impugned Final Order / Decree: N/A
- High Court: N/A
- Name of Judges: N/A
- Tribunal / Authority Name : N/A

-
1. Nature of Matter: Civil
 2. (a) Petitioner / Appellant : Archana Dwivedi
(b) Email ID: _____ ,
(c) Phone No: _____ ,
 3. (a) Respondent: Union of India and others
(b) Email ID: N/A
(c) Phone No: N/A
 4. (a) Main Category:
(b) Sub Category:
 5. Not to be listed before: N/A

6(a). Similar disposed of mater: No Similar Matter

6(b). Similar pending matter: No similar matter pending

7. Criminal Matters: N/A

(a) Whether accused / convicted has surrendered: N/A

(b) FIR / Complaint No: N/A

(c) Police Station: N/A

(d) Sentence Awarded: N/A

(e) Period of Sentence Undergone including period of detention/custody under gone: N/A

8. Land Acquisition Matters:

(a) Date of Section 4 Notification: N/A

(b) Date of Section 6 Notification: N/A

(c) Date of Section 17 Notification

9. Tax Matters: State the Tax Effect: N/A

10. Special Category: N/A

11. Vehicle No in case of motor accident claim matters): N/A

Date: 13.07.2020

ADVOCATE FOR PETITIONER

(Ashwani Kumar Dubey)

Advocate-on-Record, Supreme Court of India

Email:

, AOR

SYNOPSIS

On 2.3.2017, the High Court of Judicature at Allahabad directed the C.B.I. to constitute two independent teams to investigate the Case Cr. No. 0242 u/s 147/ 148/ 149/ 307/ 302/336/ 332/ 333/ 436/ 186/ 188 I.P.C. dated 02.06.2016 P.S. Sadar Bazar, District Mathura within two months, in which petitioner's husband late Sh. Mukul Dwivedi (SP City Mathura), late Sh. Santosh Yadav (SHO Farah) and 28 others were brutally murdered. The operative part reads as thus:

“We accordingly allow the prayers made in this batch of writ petitions for transfer of the investigation to the CBI. The CBI shall constitute two independent teams comprising of adequate number of officers of which one will investigate and submit a fresh report with regard to the incident which occurred at Jawahar Bagh on 02 June 2016 bearing in mind the observations made herein above. The DGP Police U.P. shall ensure that all relevant records are made available to the team by the investigating officer and that all cooperation is extended to the team by all concerned. The second team shall undertake a comprehensive investigation with regard to the unexplained inaction on the part of the State Government to take appropriate and prompt

action on the intelligence inputs and communications addressed by the district administration. The investigating team shall be granted access to all relevant records available with the State Government in order to enable it to undertake an in depth probe on this aspect and identify persons, if any, responsible for dereliction of duty or stalling action by the district administration. The CBI is granted two months time to complete the investigation in light of the observations made and directions issued herein above and submit its report in sealed cover before this Court. Till such time as the reinvestigation is completed by the CBI, the further trial proceedings before the Court in which the charge sheet has been submitted shall remain stayed subject to further orders of this Court”

Jawahar Bagh, a government property situated in the heart of Mathura City, was under wrongful occupation by a Ram Briksh Yadav and his criminal associates for more than two years. However, no sincere effort was ever made to vacate it because he enjoyed protection of the then ruling political party. Due to the political-cult nexus, State authorities even ignored the Order of the Hon'ble High Court to vacate the park. Authorities came into action only in 2016, when Contempt Application was filed to get the Park

vacated. Accordingly, plan was chalked out by Senior Administrative and Police Officers. However, the powerful politicians of the State were interested to scuttle the plan by creating a serious law and order situation beforehand. Therefore, on their instructions on 02.06.2016, then DM and SSP Mathura abruptly ordered petitioner's husband late Sh. Mukul Dwivedi (the then SP City) to go with only a few policemen and without firearms to break the boundary wall and assess the extent of reaction. This resulted in extreme violence in which petitioner's husband Sh. Mukul Dwivedi, SHO Farah Sh. Santosh Yadav were brutally killed and many others were injured.

On 2.3.2017, Hon'ble High Court directed CBI to constitute two teams to complete the investigation within two months. However, 40 months have passed and yet the powerful politicians and top officials of the State have not been interrogated. No punitive action has been taken against the then D.M. and S.S.P. Mathura who intentionally asked petitioner's husband to take action to vacate the park with unarmed policemen. Petitioner finds a larger conspiracy and believes that truth will remain buried unless the Hon'ble Court passes appropriate orders in this matter. There appears to be a huge pressure on CBI to protect delinquent politicians and top officers.

Ram Briksh Yadav and his associates had political and bureaucratic patronage and as such, there is less chance of a fair and complete investigation. Petitioner's husband was under tremendous pressure due to political-cult nexus and higher authorities. He was not eating properly in the last few days before he was brutally killed. On one hand, he was given the responsibility of vacating Jawahar Bagh and on the other, senior officers prevented him from taking strict action. Under mysterious circumstances, he was ordered to get the boundary wall of Jawahar Bagh broken a day prior to the scheduled operation. He was accompanied by only a few newly recruited policemen, armed with only lathis. The senior officers did not permit firearms due to which his armed gunmen, escort party and even his service revolver was not with him. This is very suggestive of a larger criminal conspiracy. Policemen witnessed this gigantic violence but no punitive action, even suspension, has been taken against the higher authorities accountable for this gigantic violence. That is why petitioner has every reason to doubt the credibility and fairness of investigation. Even after 40 months, CBI has not examined the call details of Ram Briksh Yadav and his associates and petitioner's husband till date.

It appears that *forensic investigations, such as DNA tests, were not conducted, so it is unclear whether the main accused Ram Briksh Yadav is dead or alive.* Neither his nor his close associate's phone call details were examined. There are more than two dozen cases against Ram Briksh Yadav in Mathura only and many other cases are pending in other districts throughout the State. There were more than 80 intelligence reports against the criminals but police was not permitted to take appropriate steps to vacate the park. Evidence at site of the violence was destroyed by the authorities to break the links leading to politicians - higher officers. Squatters, an armed group led by Ram Briksh Yadav, occupied the Jawahar Bagh in January 2014 and he was running a parallel government within the park with armed men but the top State administration was unwilling to act against him. It is necessary to state that SP-Mathura Office, SDM Office, DM-Mathura Office, District Court, Police Control Room, Reserve Police Line and Jail is near the Jawahar Bagh Park. Even the top most authorities received many intelligence reports about movement of criminals, illegal arms and ammunition inside the Park but did not take steps to comply the Order of the High Court dated 20.05.2016 for eviction of the park.

Due to blessings of powerful politicians, district authorities could not muster the courage of getting the Public Park evicted. There were numerous cases when Ram Briksh and his associates openly misbehaved with police and district administration officers but no official wanted to get involved in any controversy with them. For more than two years, all those who stayed in the park were provided with breakfast, lunch and dinner, and this is impossible without a very strong financier, hence needs to be thoroughly investigated. It is no secret that Ram Briksh himself did not have capability to feed 3000-4000 people, 03 meals a day for 02 years.

Present matter needs to be investigated thoroughly by the CBI because of many suspicious and large magnitudes of crime committed by Ram Briksh and his associates under the very nose of the State administration. Truth needs to be investigated about crime and conspiracy of such magnitude, and CBI has the resources, methods and independence, required to investigate crime and conspiracy of such magnitude having national ramifications. State administration was taking steps to grant a 99 year lease of Jawahar Bagh to criminals, who were encroaching the same for more than 02 years, thus it is very clear that wrong doers were very influential.

The Mathura violence is not a simple matter of violation of law and order, thus this Hon'ble Court should monitor the CBI investigation. Petitioner has many reasons to believe that her husband was used as a scapegoat. Truth will remain buried and justice is impossible without a Court monitored time bound Investigation. In this case, State is trying to cover-up the entire deep-rooted land grabbing conspiracy and political-cult nexus that is why a Court monitored CBI investigation is necessary not only to secure justice but also to instill confidence among victim families.

This gigantic incident has national and international ramifications. Mathura is a well-known religious place where People come from across the world. People involved in this incident are residents of many States and few are even residents of Nepal. If real conspirators involved in this case are not properly prosecuted and punished, victim families will lose the confidence in the Rule of Law. Petitioner is doubtful whether CBI will secure justice in such a complex land grabbing operation, due to two reasons - firstly, the involvement of the powerful politicians and secondly, the patronage of top State officials. CBI must investigate Political-Cult nexus, interrelationship between Ram Briksh Yadav and politicians, misuse

of Executive Power and complex land grabbing worth 5000 crores. The then Chief Minister and Director General of Police had stated the very next day on 03.06.2016 that the root-cause of such a gigantic incident is intelligence failure and LIU-Inspector said that the State Government ignored 80 intelligence reports. In such circumstances, Court monitored CBI investigation is essential.

State Government completely failed to take appropriate steps to ensure the Rule of Law in this matter due to political-cult nexus and conspiracy for land grabbing worth 5000 crores. If the majesty of the rule of law is to be upheld and it is to be ensured that guilty is punished in accordance with the law notwithstanding their status and authority, it is desirable to complete the investigation soon.

Petitioner sees no hope of honest and credible investigation, as in last 40 months, CBI has done nothing despite 80 intelligence reports against extremist group led by Ram Briksh Yadav, who may have managed to fake his own death and might actually be alive. In view of the aforesaid facts and circumstances, it is expedient in the interest of justice and to instill confidence in victim families, this Hon'ble Court may graciously be pleased to direct CBI to complete the investigation within two months otherwise a complete

comprehensive credible and independent investigation would not be possible in this gigantic violence and thus victim's families will suffer irreparable loss. The Constitution empowers this Hon'ble Court to issue appropriate directions to secure complete justice and to instill confidence among public at large.

LIST OF DATES

02.06.2020: Petitioner's husband late Sh. Mukul Dwivedi (the then SP City Mathura) late Sh. Santosh Yadav (the then SHO Farah) and 28 others were brutally murdered.

02.03.2017: The High Court of Judicature at Allahabad directed the CBI to constitute two teams to investigate the incident dated 02.06.2016 within two months. (Annex P-1)

02.05.2017: Matter was adjourned (Annex. P-2)

09.05.2017: Court directed to expedite investigation (Annex P-3)

06.07.2017: Matter was adjourned (Annex P-4)

21.07.2017: CBI promised to complete investigation (Annex P-5)

13.10.2017: Court granted 2 months for investigation (Annex P-6)

13.07.2017: The matter was not listed since 13.10.2017 and CBI has not completed the investigation till date. Hence, this writ petition in the interest of justice.

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO OF 2020

IN THE MATTER OF:

Archana Dwivedi

w/o late Sh. Mukul Dwivedi

, ...Petitioner

Verses

1. Union of India
Through Secretary,
Ministry of Home Affairs,
North Block, New Delhi-110001
2. Government of Uttar Pradesh
Through Chief Secretary
Lalbahadur Sastri Bhawan, Secretariat, Lucknow – 226001
3. Central Bureau of Investigation
Through The Director
CGO Complex, Lodhi Road, New Delhi-110003

WRIT PETITION FOR COURT MONITORED TIME BOUND CBI INVESTIGATION

To,

THE HON'BLE CHIEF JUSTICE OF INDIA

AND LORDSHIP'S COMPANION JUSTICES

OF THE HON'BLE SUPREME COURT OF INDIA

HUMBLE PETITION OF ABOVE-NAMED PETITIONER

THE MOST RESPECTFULLY SHOWETH AS THE UNDER:

1. Petitioner is filing this writ petition under Article 32 seeking direction to CBI to complete the investigation in gigantic incident dated 2.6.2016, in which petitioner's husband Sh. Mukul Dwivedi (the then SP City Mathura) Sh. Santosh Yadav (the then SHO Farah) and others were brutally murdered in broad day light.

2. Petitioner has not filed any other petition either in this Court or in any other Court, seeking same and/or similar directions, as prayed.
3. Petitioner name: Archana Dwivedi.
4. The cause of action accrued on 02.06.2016 and subsequent dates, when petitioner's husband Sh. Mukul Dwivedi, the then SP City Mathura and others were brutally murdered in broad day light.
5. The injury caused to petitioner is very large because despite the direction of the High Court to complete the investigation within two months, CBI has not completed the investigation in 40 months. It offends right to speedy justice guaranteed under Article 21.
6. Petitioner has no personal interest, individual gain, private motive or oblique reasons in filing it. It is not guided for gain of individual, institution or body. There is no motive other than speedy justice.
7. There is no civil, criminal or revenue litigation, involving petitioner, which has or could have legal nexus, with the issue involved.
8. There is no requirement to move concerned authority for the relief sought and there is no other remedy except filing this writ petition.

9. On 2.3.2017, the High Court of Judicature at Allahabad directed the C.B.I. to constitute two independent teams to investigate the Case Cr. No. 0242 u/s 147/ 148/ 149/ 307/ 302/336/ 332/ 333/ 436/ 186/ 188 I.P.C. dated 02.06.2016 P.S. Sadar Bazar, District Mathura within two months, in which petitioner's husband late Sh. Mukul Dwivedi (SP City Mathura), late Sh. Santosh Yadav (SHO Farah) and 28 others were brutally murdered. The operative part reads as thus:

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addressed by the district administration. The investigating team shall be granted access to all relevant records available with the State Government in order to enable it to undertake an in depth probe on this aspect and identify persons, if any, responsible for dereliction of duty or stalling action by the district administration. The CBI is granted two months time to complete the investigation in light of the observations made and directions issued herein above and submit its report in sealed cover before this Court. Till such time as the reinvestigation is completed by the CBI, the further trial proceedings before the Court in which the charge sheet has been submitted shall remain stayed subject to further orders of this Court”

10. Jawahar Bagh, a government property situated in the heart of Mathura City, was under wrongful occupation by a Ram Briksh Yadav and his criminal associates for more than two years. However, no sincere effort was ever made to vacate it because he enjoyed protection of the then ruling political party. Due to the political-cult nexus, State authorities even ignored the Order of the Hon’ble High Court to vacate the park. Authorities came into action only in 2016, when Contempt Application was filed to get the Park

vacated. Accordingly, plan was chalked out by Senior Administrative and Police Officers. However, the powerful politicians of the State were interested to scuttle the plan by creating a serious law and order situation beforehand. Therefore, on their instructions on 02.06.2016, then DM and SSP Mathura abruptly ordered petitioner's husband late Sh. Mukul Dwivedi (the then SP City) to go with only a few policemen and without firearms to break the boundary wall and assess the extent of reaction. This resulted in extreme violence in which petitioner's husband Sh. Mukul Dwivedi, SHO Farah Sh. Santosh Yadav were brutally killed and many others were injured.

- 11.** On 2.3.2017, Hon'ble High Court directed CBI to constitute two teams to complete the investigation within two months. However, 40 months have passed and yet the powerful politicians and top officials of the State have not been interrogated. No punitive action has been taken against the then D.M. and S.S.P. Mathura who intentionally asked petitioner's husband to take action to vacate the park with unarmed policemen. Petitioner finds a larger conspiracy and believes that truth will remain buried unless the Hon'ble Court passes appropriate orders in this matter. There appears to be a huge pressure on CBI to protect delinquent politicians and top officers.

12. Ram Briksh Yadav and his associates had political and bureaucratic patronage and as such, there is less chance of a fair and complete investigation. Petitioner's husband was under tremendous pressure due to political-cult nexus and higher authorities. He was not eating properly in the last few days before he was brutally killed. On one hand, he was given the responsibility of vacating Jawahar Bagh and on the other, senior officers prevented him from taking strict action. Under mysterious circumstances, he was ordered to get the boundary wall of Jawahar Bagh broken a day prior to the scheduled operation. He was accompanied by only a few newly recruited policemen, armed with only lathis. The senior officers did not permit firearms due to which his armed gunmen, escort party and even his service revolver was not with him. This is very suggestive of a larger criminal conspiracy. Policemen witnessed this gigantic violence but no punitive action, even suspension, has been taken against the higher authorities accountable for this gigantic violence. That is why petitioner has every reason to doubt the credibility and fairness of investigation. Even after 40 months, CBI has not examined the call details of Ram Briksh Yadav and his associates and petitioner's husband till date.

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14. Due to blessings of powerful politicians, district authorities could not muster the courage of getting the Public Park evicted. There were numerous cases when Ram Briksh and his associates openly misbehaved with police and district administration officers but no official wanted to get involved in any controversy with them. For more than two years, all those who stayed in the park were provided with breakfast, lunch and dinner, and this is impossible without a very strong financier, hence needs to be thoroughly investigated. It is no secret that Ram Briksh himself did not have capability to feed 3000-4000 people, 03 meals a day for 02 years.

15. Present matter needs to be investigated thoroughly by the CBI because of many suspicious and large magnitudes of crime committed by Ram Briksh and his associates under the very nose of the State administration. Truth needs to be investigated about crime and conspiracy of such magnitude, and CBI has the resources, methods and independence, required to investigate crime and conspiracy of such magnitude having national ramifications. State administration was taking steps to grant a 99 year lease of Jawahar Bagh to criminals, who were encroaching the same for more than 02 years, thus it is very clear that wrong doers were very influential.

16. The Mathura violence is not a simple matter of violation of law and order, thus this Hon'ble Court should monitor the CBI investigation. Petitioner has many reasons to believe that her husband was used as a scapegoat. Truth will remain buried and justice is impossible without a Court monitored time bound Investigation. In this case, State is trying to cover-up the entire deep-rooted land grabbing conspiracy and political-cult nexus that is why a Court monitored CBI investigation is necessary not only to secure justice but also to instill confidence among victim families.

17. This gigantic incident has national and international ramifications. Mathura is a well-known religious place where People come from across the world. People involved in this incident are residents of many States and few are even residents of Nepal. If real conspirators involved in this case are not properly prosecuted and punished, victim families will lose the confidence in the Rule of Law. Petitioner is doubtful whether CBI will secure justice in such a complex land grabbing operation, due to two reasons - firstly, the involvement of the powerful politicians and secondly, the patronage of top State officials. CBI must investigate Political-Cult nexus, interrelationship between Ram Briksh Yadav and politicians, misuse

of Executive Power and complex land grabbing worth 5000 crores.

The then Chief Minister and Director General of Police had stated the very next day on 03.06.2016 that the root-cause of such a gigantic incident is intelligence failure and LIU-Inspector said that the State Government ignored 80 intelligence reports. In such circumstances, Court monitored CBI investigation is essential.

18. State Government completely failed to take appropriate steps to ensure the Rule of Law in this matter due to political-cult nexus and conspiracy for land grabbing worth 5000 crores. If the majesty of the rule of law is to be upheld and it is to be ensured that guilty is punished in accordance with the law notwithstanding their status and authority, it is desirable to complete the investigation soon.

19. Petitioner sees no hope of honest and credible investigation, as in last 40 months, CBI has done nothing despite 80 intelligence reports against extremist group led by Ram Briksh Yadav, who may have managed to fake his own death and might actually be alive. In view of the aforesaid facts and circumstances, it is expedient in the interest of justice and to instill confidence in victim families, this Hon'ble Court may graciously be pleased to direct CBI to complete the investigation within two months otherwise a complete

comprehensive credible and independent investigation would not be possible in this gigantic violence and thus victim's families will suffer irreparable loss. The Constitution empowers this Hon'ble Court to issue appropriate directions to secure complete justice.

PRAYER

It is respectfully prayed that this Hon'ble Court may be pleased to issue a writ/order/direction or writ in the nature of mandamus to:

- a) direct the CBI to constitute a team comprising of adequate number of officers to investigate gigantic incident dated 02.06.2016 within two months, in which S.P-City Mathura Sh. Mukul Dwivedi, SHO Farah Sh. Santosh Yadav and 28 others were brutally murdered;
- b) direct the CBI to constitute a team for comprehensive investigation with regard to the unexplained inaction on the part of State to take prompt action on the intelligence inputs and communications;
- c) direct the State government to give access to all relevant records available in order to enable the CBI to undertake an in depth investigation and identify persons responsible for dereliction of duty and stalling action by the Mathura district administration;
- d) pass such other order as this Hon'ble Court may deem fit & proper.

New Delhi
13.07.2020

Advocate for petitioner
(Ashwani Kumar Dubey)

