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	<p>Sections 3(1) &amp; 4 The Indian Telegraph Act, 1885.</p> <p>Preamble and section 4 of The Press And Registration Of Books Act, 1867.</p> <p>Section 2f of The Working Journalists And Other Newspaper Employees (Conditions Of service) And Miscellaneous Provisions Act, 1955</p>			
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**PROFORMA FOR FIRST LISTING**

**SECTION PIL**

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

- Central Act: (Title)\_The Constitution of India
- Articles / Section: 14,19, 21
- Central Rule: (Title) N.A
- Rule No (s): NA
- State Act: (Title) NA
- State Rule:(Title) NA
- Impugned Interim Order: (Date) NA
- Impugned Final Order: (Date) NA
- High Court : (Name)\_ NA
- Names of Judges: NA
- Tribunal/Authority: (Name) NA

- 
1. Nature of matter: **Civil**
  2. (a) Petitioner/Appellant: Reepak Kansal  
(b) e-mail ID:  
(c) Mobile phone number:
  3. (a) Respondent No. 1: U.O.I  
(b) e-mail ID:\_NA  
(c) Mobile phone number: \_NA
  4. (a) Main category classification:\_ 18  
(b) Sub classification:\_1807
  5. Not to be listed before:\_ NA

A/2

6.(a) Similar disposed off with citation if any: N/A -No similar disposed off matter

6.(b) Similar pending matter with case detail: No similar matter is pending

**7. Criminal Matters:**

(a) Whether accused/convict has surrendered: ( )Yes ( ) No NA

(b) FIR No. NA Date: NA

(c) Police Station:\_\_\_ NA

(d) Sentence Awarded: \_ NA

(e) Sentence Undergone: \_\_NA

**8. Land Acquisition Matter: NA**

(a) Date of Section 4 notification: \_ NA

(b) Date of Section 6 notification: \_\_ NA

(c) Date of Section 17 notification: \_\_ NA

**9. Tax Matters:** State the tax effect:\_\_\_ NA

**10. Special Category** (first Petitioner/appellant only): NA

( ) Senior citizen > 65 years ( ) SC/ST ( ) Woman/child ( ) Disabled ( ) Legal Aid case ( ) In custody NA

**11. Vehicle Number** (in case of Motor Accident Claim matters): NA

Date: 08.05.2020

Harisha SR  
(Advocate for Petitioner )

### **SYNOPSIS & LIST OF EVENTS**

The petitioner seeks indulgence of this Hon'ble Court to protect and safeguard right of life with dignity as guaranteed under the Constitution of India and which have been assassinating by uncontrolled and unregulated broadcasting electronic channels claimed to be 'Press'. The Supreme Court held in various judgments that right to life includes dignity.

The freedom of expression under Article 19 (1) of the Constitution doesn't permit anyone to assassinate the dignity of individuals and political & religious organisation. The clause (2) of Article 19 prevents any person from making any statement that injures the reputation of another. The Constitution also prohibits a person from making any statement that incites people to commit offense. Under Indian law, the freedom of speech is not an absolute right to express one's thoughts freely and even Press does not confer the same. Clause (2) of Article 19 of the Indian constitution enables the legislature to impose certain restrictions on free speech under following heads:

- I. security of the State,
- II. friendly relations with foreign States,

- III. public order,
- IV. decency and morality,
- V. contempt of court,
- VI. defamation,
- VII. incitement to an offence, and
- VIII. sovereignty and integrity of India.

The airwaves are public property and it is necessary to regulate the use of such airwaves in national and public interest, particularly with a view to ensuring proper dissemination of content and in the widest possible manner.

The question of the Legal control over electronic broadcasting sources i.e. like radio, television and internet protocol television is a topic to be pondered over in recent times in India, especially when there is circulation of fake news, bad journalism or hate speeches in the name of journalism and which also became a platform to assassinate the dignity of an individual or religious and political organizations. The live debates and reporting on the electronic broadcasting channels cannot be stopped until unless it would be regulated by statutory body.

The respondent / Government has issued guidelines from time to time, with the approval of the Union Cabinet, for regulating the Broadcasting Services and now it is need of hour to give a statutory effect to these guidelines with retrospective effect as also observed and opined by this Hon'ble court in various judgment.

Some of these said electronic broadcasting channels claimed to be news channels / press, have been spreading negativity & enmity among the different communities of the nation. The hate speeches by the Anchors with the same faces of panelist have been using bad words/ abusive language. Some of these broadcasting electronic channels have been targeting one community and instigating one community towards another community. Due to said illegal activities in the name of journalism by these self regulated broadcasting channels, India's ranking fell from 138 to 140 out of 180 countries in RSF's 2019 World Press Freedom Index.

There are more than 400 electronic broadcasting channels claimed to be "PRESS" are require broadcasting statutory bodies & legislation for ensuring plurality of opinions, views, discussion and ideas. Due to absence of regulation & legislation, these uncontrolled and un-regulated electronic broadcasting channels,

have been attacking on the foundation of unity and integrity of India and working against its' Sovereignty, Socialism, Secularism and democracy.

The PCI was established under the PCI Act of 1978 for the purpose of preserving the freedom of the press and of maintaining and improving the standards of newspapers and news agencies in India which does not *have* the power to review the functioning of the electronic media like radio, television and internet media. These electronic broadcasting channels do not come under the ambit of Press Council of India, a statutory authority.

As per the definitions mentioned in 'The Press And Registration Of Books Act, 1867' these broadcasting electronic channels are not covered. The preamble and definitions of the said Act are reproduced as under:-

**Preamble.** - WHEREAS it is expedient to provide for the regulation of printing-

"editor" means the person who controls the selection of the matter that is published in a newspaper;

**Section 4. Keeper of printing press to make declaration.—**

[(1) No person shall within <sup>2</sup>[India], keep in his possession any press for the printing of books or papers, who shall not have made and subscribed the following declaration before <sup>5</sup>[the District, Presidency or Sub-divisional Magistrate] within whose local jurisdiction such press may be:

"I, A.B., declare that I have a press for printing at ".

And this last blank shall be filled up with a true and precise description of the place where such press may be situate.

[(2)] As often as the place where a press is kept is changed, a new declaration shall be necessary:

The anchors of these broadcasting electronic channels are not covered under the definition of The Working Journalists And Other Newspaper Employees (Conditions Of service) And Miscellaneous Provisions Act, 1955. The said Act defines definition of working journalist as under:

2(f) " working journalist" means a person whose principal avocation is that of a journalist and <sup>4</sup> who is employed as such, either whole- time or part- time,

in, or in relation to, one or more newspaper establishments], and includes an editor, a leader-writer, news editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist, news photographer and proof-reader, but does not include any such person who—

(i) is employed mainly in a managerial or administrative capacity, or

(ii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature;

Thereafter, no law is enacted or amended till today to bring broadcasting employees / Anchors in the definition of journalist and electronic broadcasting channels in the definitions of 'PRESS' or Journalist etc.

These self-declared, un-controlled and un-regulated electronic broadcasting channels are falsely claiming themselves as media and have been running by foreign / Indian investors in the name of news channels / media. It's Anchors falsely

representing themselves as Journalists. There is clear cut misuse of fourth pillar of democracy by giving it in the hand of foreign investors. There is scope to weaken the unity and strength of our nation by the foreign investors.

The Indian Telegraph Act, 1885, a look at its scheme and provisions would disclose that it was meant for a different purpose altogether. When it was enacted, there was neither radio nor television, even though radio and television fall within the definition of "telegraph" in Section 3(1) of the Act.

Except Section 4 of the said act and the definition of the expression "telegraph" no other provision of the Act appears to be relevant to broadcasting media.

The respondent no. 1 / Ministry of Information and Broadcasting is responsible for the administration of the public and the private channels. Doordarsan, Akashvani and Prasar Bharati Corporation and Telecommunication Regulatory Authority of India (TRAI) are the appendage of the Indian Government dealing with the media.

The Supreme Court in 'Cricket Broadcasting case' has also opined and advised to government that there shall be a

legislation for controlling the electronic media. But even now the basic law regarding the electronic media is the telegraph laws which are pre-electronic laws.

The Supreme Court in *Re: Secretary Ministry of Information and Broadcasting, Government of India and others v/s. Cricket Association of Bengal and Others* 1995 SCC (2) 161

“(b) Airwaves constitute public property and must be utilised for advancing public good. No individual has a right to utilise them at his choice and pleasure and for purposes of his choice including profit. The right of free speech guaranteed by Article 19(1) (a) does not include the right to use airwaves, which are public property. The airwaves can be used by a citizen for the purpose of broadcasting only when allowed to do so by a statute and in accordance with such statute. Airwaves being public property, it is the duty of the State to see that airwaves are so utilised as to advance the free speech right of the citizens which is served by ensuring plurality and diversity of views, opinions and ideas. This is imperative in every democracy where freedom of speech is assured. The free speech right guaranteed to every citizen of this country does not

encompass the right to use these airwaves at his choosing. Conceding such a right would be detrimental to the free speech rights of the body of citizens inasmuch as only the privileged few - powerful economic, commercial and political interests - would come to dominate the media. By manipulating the news, views and information, by indulging in misinformation and disinformation, to suit their commercial or other interests, they would be harming and not serving - the principle of plurality and diversity of views, news, ideas and opinions. This has been the experience of Italy where a limited right, i.e., at the local level but not at the national level was recognized. It is also not possible to imply or infer a right from the guarantee of free speech which only a few can enjoy.

(c) Broadcasting media is inherently different from Press or other means of communication / information. The analogy of press is misleading and inappropriate. This is also the view expressed by several Constitutional Courts including that of the United States of America.

The Supreme Court has rightly opined that in the cricket broadcasting case in the following words,

“It is absolutely essential, in the interests of public, in the interests of the freedom of speech and expression guaranteed by Article 19(1) (a) and with a view to avoid confusion, uncertainty and consequent litigation that Parliament should take steps to fill the void by enacting a law or laws, as the case may be, governing the electronic media.

Today, electronic broadcasting channels are governed by mechanisms of self-regulation. One such mechanism has been created by the Respondent No. 2 / News Broadcasters Association. The NBA has devised a Code of Ethics to regulate television content. The News Broadcasting Standards Authority (NBSA) / Respondent No. 3, is a private body set up by news broadcasting Association is empowered to warn, admonish, censure, express disapproval and fine the broadcaster a sum up to Rs. 1 lakh for violation of the Code. Another such organization is the Broadcast Editors' Association. These groups govern through agreements and do not have any statutory powers.

Due to competition to show the current news / breaking news / live news, the said electronic broadcasting channel create hurdles for investigating agencies by live reporting. 26/11 attack of Mumbai at hotel Taj, electronic broadcast live coverage of every action of the Indian defense side and live movement of Taj which helped the terrorist to know the every step of government which posed threat to national security of nation.

Some of these Anchors / employees were also caught red handed for blackmailing the citizen of India and extorting money in the journalism by the employees of these electronic broadcasting channels. Zee News - Jindal reverse sting operation in which Anchor of Zee News raised a demand of Rs. 100 Crore for advertisement on Zee News otherwise, channel will broadcast negative stories against the company.

The electronic broadcasting channels start Immediate Media Trial or Parallel Trial in sub-judice matters and give its judgmental view on public plate-form which amounted to interference in the administration of justice. The said trial hold by broadcasting electronic channels violates the right to accused to have fair trial. Due to said media trial, the general public shape their mind against said accused person and it become difficult for said accused to live with dignity in the said society.

- State of Maharashtra v. Rajendra Jawanmal Gandhi.

The Court opines that

We agree with the High Court that a great harm had been caused to the girl by unnecessary publicity and taking morcha by the public. Even the case had to be transferred from Kohlapur to Satara under the orders of this Court. There is procedure established by law governing the conduct of trial of a person accused of an offence. A trial by press, electronic media or public agitation is very antithesis of rule of law. It can well lead to miscarriage of justice.

- M.P. Lohia v. State of W.B

We deprecate this practice and caution the publisher, editor and the journalist who was responsible for the said article against indulging in such trial by media when the issue is sub-judiced. However, to prevent any further issue being raised in this regard, we treat this matter as closed and hope that the other concerned in journalism would take note of this displeasure expressed by us for interfering with the administration of justice.

- Manu Sharma v. State (NCT of Delhi)

Media influence - Fair trial - Need for restraint by media - Distinction between trial by media and informative media to be maintained - Trial by media to be avoided particularly at stage when suspect is entitled to constitutional protection - Reporting of sub judice matters to be subjected to checks and balances so as not to interfere with administration of justice, (2010) 6 SCC 1-ZA

In Ram Janmbhumi – Babari Masjid Case- due to false and provoking coverage, the Supreme Court as well as Authorities put restriction on the live debate and coverage of broadcasting channels.

The final day of the hearing witnessed some moments with Dr Dhawan Sr Advocate tearing up in court certain maps and other documents sought to be relied on by opposite counsel to show the point which the Hindus have believed to be Lord Ram's place of birth. "You can shred it more", Hon'ble Chief Justice had commented.

The said incident was misreported by broadcasting electronic channels which also provoked the citizens. Dr. Dhawan, Sr. Adv. Subsequently suggested that he had

intended to throw away the papers and proceeded to tear them only when the Chief Justice said so — “It was with the court’s permission”. The Chief Justice also agreed that he had said that the Senior Counsel may tear up the documents.

While most broadcasting electronic channels broadcasted last day of the hearing as dramatic without any proof that any side indulging in “violence” in the court.

Republic TV anchor, while calling for peace, repeatedly criticized lawyers representing the “Muslim side” and called their legal appeals a “craft of distraction”. The said anchor, time and again, described the legal defence mounted by the “Muslim side” as delay tactics

Delhi Nirbaya’s case etc – In said case, broadcasting channels also held advance / parallel trail by calling accused as “Delhi ke Darinde” (Devils of Delhi )

The Anchors of some of said electronic broadcasting channels used to call anyone with bad names i.e. Urban-Naxals’ or ‘Maoists’ Deshdrohi (Anti-nation), Zahil Maulana (Non-civilian /uneducated Muslim scholar / Master), Zahil Zamaat (a group of Non-civilian / uneducated Muslims offering prayer together),

Shaitan (Devil), Haivan (a person behave wildly, Desh ke Dushman (Enemy of Nation), Tume Mafi Mangni Chahiye Desh Se (You should say sorry to nation), Desh Tumhe Kabhi Maaf Nahi Karega (Nation will never forgive you) etc. The said act of broadcasting electronic channels, have been violating the fundamental rights to live with dignity.

The petitioner was watching a live debate broadcasted on News18 (AAR PAR) at about 7 PM on 22.04.2020 by an Anchor. The petitioner was very disappointed and annoyed to hear the language used by the panelists and anchor in said live debates in the journalism which is totally against the ethics of journalism. The used language by panelist & anchor, provocation, drama can't be part of news. Some of the electronic broadcasting channel have been running their business and earning more profits due to abusive & aggressive languages. There is lot of difference in the debates on national government channels (DD News) and these broadcasting electronic channels.

One of the results of negative and provocative reporting / live debates during Covid 19, the section of society has targeted the street vendors of one community by asking them to show their identity and denied their entries If, any vendor belongs to a particular community. There are some banner/ notice board put

on the gates of colonies/ societies banning vendors of particular community.

An Anchor claimed to be Chief Editor of Rbharat an electronic broadcasting channel uses abusive, defamatory & provoking language against the one community, panelist of said community, their religion and religious saint. The panelists called on his live debates also give provoking & defamatory statements which hurt the sentiments of the public at large/ one community. The said Anchor do not follow the ethics of journalism therefore, several FIRs are also lodged against him and his channel across the country.

The victim Anchor used his channel to continuous criticizing the leader of opposition, a senior congress leader of congress party and her on 22.04.2020 & 23.04.2020 at 3 PM without any evidence.

The said chief editor abused a senior lady leader and her family by imposing baseless allegations without any evidence. The said chief editor called Sonia ke gunde (Goons of Sonia).

The said anchor is victim of alleged attack and therefore, instead of following the procedure established by law, he

misused the plate-form of his broadcasting electronic Channel to criticize a Senior Lady and her family accusing them for the said attack. The language used by said Achor in live telecast is reproduced as under:-

“Will Sonia Gandhi remain quiet? She is quiet today and she is happy that the saints have been killed where her government is ruling. She will send a report to Italy that she is getting saints killed in a place where her government is ruling and she will get praises for that,”

The Anchor said on the show.

It is also important that in the name of journalism, the said Anchor in the same debate, used derogatory language against Smt. Gandhi and made baseless allegations of communal nature against her. The defamatory words and assassination of dignity of an individual, religious saint, religion, religious community and political organisation which is totally against the ethics of Journalism and can't be news and require interference of this Hon'ble Court under Art. 32 to protect the fundamental rights as guaranteed under the Constitution of India.

India is a signatory to the Universal Declaration of Human Rights and human rights are rights inherent to all human beings, irrespective of their nationality, gender, ethnicity, colour, religion, language, or any other grounds.

As per Article 12 of Universal Declaration of Human Rights and human rights, is reproduced as under:-

*“No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.”*

In the absence of the Government regulatory body, to regulate the Electronic Media, there is rampant misuse of the medium and has become an instrument of unrest and outrage among the masses, therefore, this Writ Petition is being filed.

1867            The Press And Registration Of Books Act, 1867 is enacted.

1950            The Emblems And Names (Prevention Of Improper Use) ACT, 1950 is enacted to curb the

misuse of names of nation, Government establishments etc.

- 1955 The Working Journalists And Other Newspaper Employees (Conditions Of service) And Miscellaneous Provisions Act, 1955 is enacted.
- 1997 A broadcasting bill, 1997 was introduced by Government of India.
- 2006 The respondent no. 1 introduced a bill, which calls for the setting up of a separate Broadcast Regulatory Authority of India (BRAI). The Broadcasting Services and Regulation Bill, 2006, were proposed but never turned into statutes/legislation.
- 06.05.2020 Hence this Writ Petition is being filed.

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION (C) NO. \_\_\_\_\_ / 2020

(Writ Petition under Article 32 of the Constitution Of India)

In the matter of :

Reepak Kansal,

Petitioner

Versus

1 Union of India through  
Secretary,

Ministry of Information &  
Broadcasting, A wing Shastri  
Bhawan New Delhi-110001.

Ministry of Law and Justice,  
4th Floor, A-Wing, Shastri  
Bhawan, New Delhi- 110001.

Respondent 1

2 News Broadcasters

Association through its  
President, FF-42, Omaxe,  
Square, Commercial Center,  
Jasola, New Delhi-110025.

Respondent 2

3 News Broadcasting Standards  
Authority of India through its'  
Secretary C/o News  
Broadcasters Association  
Mantec House, C-56/5, 2nd  
Floor, Sector 62,  
Noida - 201 301.

Respondent 3

4 Press Council of India  
Through Secretary, Soochna  
Bhavan, 8 - C.G.O. Complex,  
Lodhi Road, New Delhi-  
110003.

Respondent 4

To  
Hon'ble the Chief Justice of India  
and His Companion Justices of  
The Supreme Court of India;

The humble petition of the Petitioner above-named

MOST RESPECTFULLY SHEWETH:

1. The Petitioner is filing this Writ Petition in public interest under Article 32 read with Article 14, 19 & 21 of the Constitution of India.
2. The respondent no. 2, The News Broadcasters Association (NBA) is a private association which represents the private television news & current affairs broadcasters.
3. The respondent no. 3 is a private authority constituted by the respondent No. 2 / News Broadcasters Association (NBA). The respondent no. 3 is not a statutory body and its decision is not legal binding on the private broadcasters/ members.
4. That, the Petitioner is constrained to file this Writ Petition before the Hon'ble Supreme Court of India as relief(s) have been claimed to Central Government.
5. That, the Petitioner is constrained to file the above Writ Petition before this Hon'ble Court as it has no other efficacious remedy.
6. The Petitioner is an Advocate and member of the SCBA.

7. The Petitioner has no personal gain, private motive or oblique reason in filing the present writ petition.
8. The Petitioner states that no civil, criminal or revenue litigation involving the Petitioner or which has or could have a legal nexus with the issue involve in the present writ petition.
9. That, the Petitioner is citizen of India and filing the present writ petition for the common cause and the benefits of the society at large. The Petitioner has been taking up public causes through various petitions before the Courts and before authorities by way of applications under Right to Information Act, 2002.
10. There is violation of Articles 14, 19 & 21 of the Constitution of India.
11. That the Petitioner states that he has not approached any of the court (s) earlier for the relief sought in this petition.

12. That the Petitioner has not filed any similar petition previously before this Hon'ble Court or before any High Court.
13. The injuries caused to society when the broadcasting electronic channel assassinate the dignity of individual, religious and political organization and give their respective views without following restriction as prescribed in Art 19 (2) of the Constitution of India. Due to absence of legislation and statutory authorities, the said broadcasting electronic channels and its Anchors have been misrepresenting themselves as Press, Journalists & Media.
14. The following issues require immediate attention and redressal:-
  - 14.1 Whether the freedom of speech and expression as granted under Article 19 (1) of the Constitution which is subjected to restriction under Article 19 (2) would not applicable to these broadcasting electronic channels and permit the Anchors and their respective broadcasting electronic channel to assassinate the dignity of an individual or any religious and political organization in the name of journalism?

- 14.2 Whether it is not necessary to regulate the use of such airwaves in national and public interest, particularly with a view to ensuring proper dissemination of content and in the widest possible manner?
- 14.3 Whether the present laws for controlling electronic broadcasting channel claimed to be 'Press' in India are sufficient for its' regulation or not?
- 14.4 Whether there is no action against the anchors and panelists of these broadcasting electronic channels for provoking communities by using abusive, defamatory, unethical language and hate speeches?
- 14.5 Whether the law (s) of the land permit the Anchors of the said electronic broadcasting channels to call anyone with bad names i.e. Urban-Naxals' or 'Maoists' Deshdrohi (Anti-nation), Zahil Maulana (uneducated Muslim scholar / Master), Zahil Zamaat (a group of uneducated Muslims offering prayer together), Shaitan (Devil), Haivan (a person behave wildly), Desh ke Dushman (Enemy of Nation), Tume

Mafi Mangni Chahiye Desh Se (You should say sorry to nation), Desh Tumhe Kabhi Maaf Nahi Karega (Nation will never forgive you) etc?

- 14.6 Whether these anchors of broadcasting electronic channels can be permitted to ask their own question in the name of nation (Poochta hai Bharat- India is questing & AAR -PAAR) without collecting opinion & information from public at large?
- 14.7 Whether these Anchors are above the law of land and court would not take any action against the Anchors and broadcasting electronic channels falsely representing themselves a 'Journalist' and' Press' & 'Media'?
- 14.8 Whether these channels are permitted to force any citizen of country to answer their respective question on their own setup?
- 14.9 Whether it is not against the natural justice ((Nemo Judex In Sua Causa) by allowing the News Broadcasters Association (NBA) a private Association of broadcasters to set up News Broadcasting Standards Authority (NBSA) for

complaints regarding broadcasting electronic channels claimed to be 'Press'

- 14.10 only in respect of member channels which is totally against of natural justice that no person can **judge a case** in which they have an interest Whether it is not necessary to constitute a statutory body for regulating the Broadcasting Services and it is not necessary to give a statutory effect to guidelines issued by government with retrospective effect?
- 14.11 Whether a legislation and statutory body are not required for the unregulated and uncontrolled electronic broadcasting channels claimed to be Press?
- 14.12 Whether these un-controlled & un-regulated electronic broadcasting channels come under the ambit of Press Council of India as these broadcasting news channel described themselves as 'PRESS' at public and legal plate-forms?

- 14.13 Whether the definition under Section 2 of “The Working Journalists And Other Newspaper Employees (Conditions Of service) And Miscellaneous Provisions Act, 1955” cover the Anchors of said broadcasting electronic channels?
- 14.14 Whether the norms of journalism / professional ethics would be applicable to the Anchors of broadcasting electronic channels?
- 14.15 Whether language of Anchors of unregulated and uncontrolled broadcasting electronic channels are not objectionable according to Section 2 (1) (d) of Protection of Human Rights Act 1993, means the rights relating to life, liberty, equality and dignity of the individual guaranteed by the constitution or embodied in the International Covenants and enforceable by Courts of India?
- 14.16 Whether this Hon’ble Court under Art 32 of the Constitution of India may restrict the assassination of dignity of individual, community, religious saint, religious & political organisation by these broadcasting electronic channels.

15. The petitioner relies upon following grounds amongst others to substantiate his submission, which are as under:

- 15.1 Because, there has been an abuse of this freedom of expression and it ought to be noticed that hate speech and judgmental view in sub-judice matter, targeting any religion saint, religious group & community with bad name and insulting, doesn't fall under the classification of Freedom of Expression and such freedom is subjected to restriction under Art. 19 (2) of the Constitution of India.
- 15.2 Because airwaves are public property and it is necessary to regulate the use of such airwaves in national and public interest, particularly with a view to ensuring proper dissemination of content and in the widest possible manner.
- 15.3 Because the clause (2) of Article 19 prevents any person from making any statement that injures the reputation of another.

- 15.4 Because, Fundamental Rights as mentioned in the Constitution of India are conferred only on citizens and not on associations of citizens or any profit making business.
- 15.5 Because, the foremost problem is the language / narrative used by media houses, which often leads to false accusations of individuals, religious and political organization.
- 15.6 Because, the Anchor of the said electronic broadcasting channels used to call anyone with bad names i.e. Urban-Naxals' or 'Maoists' Deshdrohi (Anti-nation), Zahil Maulana (uneducated Muslim scholar / Master), Zahil Zamaat (a group of uneducated Muslims offering prayer together), Shaitan (Devil), Haivan (a person behave wildly), Gunda LL.B (Goon LL B) Desh ke Dushman (Enemy of Nation), Tume Mafi Mangni Chahiye Desh Se (You should say sorry to nation), Desh Tumhe Kabhi Maaf Nahi Karega (Nation will never forgive you) etc. The said act of broadcasting news channels, have been violating the fundamental rights to live with dignity.

- 15.7 Because this Hon'ble Court observed in *Union of India v. Assn. for Democratic Reforms* "One sided information, disinformation, misinformation and non-information, all equally create an uninformed citizenry which makes democracy a farce.
- 15.8 Because the respondent government to strictly protect robust debate on matters of public concern even when such debate devolves into distasteful, offensive, or hateful speech that causes others to feel grief, anger and fear.
- 15.9 Because Debates on electronic media which are provocative and inflammatory and likely to create tension in the public should be banned.
- 15.10 Because, the telecast of any news / debate / programme must not give any impression of bias or prejudice in favour of or against any community.
- 15.11 Because unfortunately, uncontrolled and unregulated electronic media has been working as commercial industry and bring into play by one political party against another political party.

- 15.12 Because, sensational reporting and discourse on critical issues just for the sake of viewership and notoriety has resulted in the tarnishing of an image of individual or community or religious or political organisation.
- 15.13 Because, due to misuse of airwaves and false representation of the employees of said broadcasting news channels provoke the communities and hurt the sentiments of citizen of India. Some of these Anchors / employees were also caught red handed for blackmailing and extorting money.
- 15.14 Because the anchors of said broadcasting channels are also masters in assassinations of dignity of any individual, organization and political party by claiming themselves as Media and have been taking protection of freedom of Press.
- 15.15 Because the Anchors of some of broadcasting electronic channels always target one community and try to divide the unity of this nation which is prohibits under the freedom of speech. Same faces of their panelists share their personal views and give statements at the instance of anchors which create

rivalry among the different communities and even fuel killings. The false, impartial and judgment view by the anchors of these business entities give an impact on the public at charge which sometimes resulting into disturbance and riots among different communities.

- 15.16 Because respondent / Government has issued guidelines from time to time, with the approval of the Union Cabinet, for regulating the Broadcasting Services and it is necessary to give a statutory effect to these guidelines with retrospective effect.
- 15.17 Because in case of vacuum of legal regime, to deal with the particular situation, the court may issue guidelines to provide a situation till such time as the legislature to cover the field.
- 15.18 Because the respondent no. 1 / Ministry of Information and Broadcasting allowed the News Broadcasters Association (NBA) a private Association of broadcasters to set up News Broadcasting Standards Authority (NBSA) for complaints regarding News Channels only in respect

of member channels which is totally against of natural justice that no person can **judge a case** in which they have an interest (Nemo Judex In Sua Causa).

- 15.19 Because, until, journalism was dominated by print media, it remained a positive force, but with the advent of electronic media negative facets of journalism has also appeared due to lack of statutory provisions and Authority.
- 15.20 Because, in print media, there is option to rectify the mistake or false statement but in electronic media and live debates there is no option to correct the statement of Anchor or panelists.
- 15.21 Because, so called electronic media has reduce the circulation of print media by falsely representing themselves as electronic media house which is also blow on the fourth pillar of democracy.
- 15.22 Because, these broadcasting electronic channels have been wrongly working under the banner of "Press" which is considered as the 'Fourth Pillar of Democracy" which have to work properly and legitimately.

- 15.23 Because, these self declared Press is having no authority to run Press but getting all perks and privileges given to Press.
- 15.24 Because there is no statutory authority to check the illegal activities of said un-controlled and un-regulated plate-form.
- 15.25 Because, these broadcasting electronic channels has been forcing and pressurizing the citizens, religious (guru) master, scholars, disciples , devotees, political leaders, professional to answers the questioning of their Anchors within prescribed period which is a criminal act and violate of fundamental rights.
- 15.26 Because there is a prohibition of improper use of certain emblems and names under the The Emblems And Names (Prevention Of Improper Use) ACT, 1950 and one of the broadcasting electronic channel (Rbharat) has been misusing name "Bharat" and questing in the name of "Bharat" for getting more profit.
- 15.27 Because the said Anchor of R Bharat electronic channel, is known for his misconduct & mis-

reporting therefore, has been facing several criminal litigations due to provoking, defaming abusing and also assassinating the dignity of individuals and religious and political organization etc.

15.28 Because, the Anchor of R Bharat broadcasting news channel by falsely claiming himself as a Journalist use defamatory language and do continuous attack on the dignity in live debates i.e (Puchata Hai Bharat – India is Questioning) without collecting public opinion form citizens of country. There are numbers of criminal proceeding are pending against said Anchor and his broadcasting channel.

15.29 Because, recently, the said Anchor who claimed himself to be victim of attack, used inappropriate words against leader of one political party. Instead of giving statement to IO and participating in the investigation, the said Anchor used the said electronic broadcasting channel for attacking on one political party, its' President Smt Sonia Gandhi and her family members.

- 15.30 Because, the said Anchor called attackers as ‘Sonia Ke Gunde’ etc and assassinate the dignity of individual as well as political party. There are numbers of FIRs are registered against him across country prior and after the said false and baseless reporting on public plate-form.
- 15.31 Because, said Anchor, a self declared authority on behalf of Bharat (India) forced the citizen of India to give their views on issues raised by him without having any authority from the government of **India** in a program (poochta hai bharat- India is questioning) and pass his judgment against said person after getting no response from him / her.
- 15.32 Because said Anchor of R Bharat is openly saying through his electronic broadcasting channel that he is ready for more attack on questioning on behalf of India without having any legal sanction and force the citizen of country to give answer/opinion to his questions. On the other hand, the said Anchor has been approaching the various courts of law by falsely mentioning that it is an attack on press and journalist without having permission, proof of journalism, press and by any other statutory authority.

- 15.33 Because the said employee of Rbharat has also given false statement before this Hon'ble Court in D. NO. 11006/ 2020 by falsely representing himself as journalist and sought relief on the ground of freedom of PRESS as guaranteed under Art. 19 (1) of the Constitution of India.
16. In recent times, we have witnessed a spike in cases of hate speech, delivered either by the politicians or by the uncontrolled and un-regulated broadcasting electronic channels that has resulted in violence among the public.
17. There are various court which has taken step to curb the hate speech delivered by politician but there is no action against the live debates on various electronic media which are liable for hate speeches by presenting biased views and prompted news, respectively. It demonstrates instances of hate speech where a discourse by a politician or biased coverage by the media results in a public disturbance, violence, and communal killings.

PRAYER

It is, therefore, most respectfully prayed that your lordships may be pleased to allow this Writ Petition and may further be pleased:-

(i) to issue an appropriate Writ, order or direction in the nature of Mandamus directing the Central Government / respondent No. 1 to restrict the assassination of dignity of individual, community, religious saint, religious & political organisation by these broadcasting electronic channels in the name of freedom of 'Press' and /or

(ii) to issue an appropriate Writ, order or direction in the nature of Mandamus directing the respondent No 1 to control these uncontrolled and unregulated broadcasting electronic channels and /or

(iii) to issue an appropriate Writ, order or direction in the nature of Mandamus directing the respondent to restrict media trail, parallel trial, judgmental views and interfering in the administration of justice and/or

(iv) to issue an appropriate Writ, order or direction in the nature of Mandamus directing the Central Government / respondent No. 1 to constitute an independent authority to be known as the Broadcast Regulatory Authority of India for the purpose of regulating and facilitating development of broadcasting services in India ; and/or

(v) to issue an appropriate Writ, order or direction in the nature of Mandamus directing the respondent to stop the misuse of airwaves by these broadcasting electronic channels in the name of media, press and journalism: and / or

(vi) to pass such other Writ (s), order (s) or direction(s) as is deemed fit and proper in the premises of the case, which is not specifically prayed for hereinabove.

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

Drawn by

Reepak Kansal

Draft on: 09.05.20

Filed on: 11.05.20

**Filed By:**

Harisha SR

Advocate of Petitioner/ AOR

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION  
WRIT PETITION (C) No. \_\_\_\_\_/2020

IN THE MATTER OF:

Reepak Kansal

...Petitioner

Versus

Union of India

...Respondent.

AFFIDAVIT

I, Reepak Kansal

- 1 I am Petitioner in the aforesaid matter and I am fully conversant with the facts and circumstances of the case.
- 2 The contents of synopsis and list of dates from pages B to T, Writ Petition from pages 1 to 21 , and paper -book has total 51 pages have understood by me and I say that the facts mentioned therein are true to my personal knowledge and belief.
- 3 The Petitioner has no personal gain, private motive or oblique reason in filing the present Writ Petition.

Deponent

Verification

Verified at Delhi on this 8<sup>th</sup> May, 2020 that the contents of the paragraphs in the above affidavit from para 1 to 4 are true and correct to my knowledge and belief. Nothing is false and nothing material has been concealed there from.

Deponent

**APPENDIX**

**The Constitution Of India 1949**

**Article 14**

Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India  
Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

**Article 19(2) in The Constitution Of India 1949**

(2) Nothing in sub clause (a) of clause ( 1 ) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence

**Art 21.**

Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law

**Section 3 in The Emblems And Names (Prevention Of Improper Use) Act, 1950**

3. Prohibition of improper use of certain emblems and names. Notwithstanding anything contained in any law for the time being in force, no person shall, except in such cases and under such conditions as may be prescribed by the Central Government, use or continue to use, for the purpose of any trade, business, calling or profession, or in the title of any patent, or in any trade mark or design, any name or emblem specified in the Schedule or any colourable imitation thereof without the previous permission of the Central Government or of such officer of Government as may be authorized in this behalf by the Central Government.

## **The Indian Telegraph Act, 1885**

### **3. Definitions.**

in this Act, unless there is something repugnant in the subject or context, -

1. ["telegraph" means any appliance, instrument, material or apparatus used or capable of use for transmission or reception of signs, signals, writing, images and sounds or intelligence of any nature by wire, visual or other electro-magnetic emissions, Radio waves or Hertzian waves, galvanic, electric or magnetic means.

Explanation. "Radio waves" or "Hertzian waves" means electro-magnetic waves of frequencies lower than 3,000 giga-cycles per second propagated in space without artificial guide;]

### **4. Exclusive privilege in respect of telegraphs, and power to grant licenses.**

1. Within [India], the Central Government shall have exclusive privilege of establishing, maintaining and working telegraphs:

Provided that the Central Government may grant a license, on such conditions and in consideration of such payments as it thinks fit, to any person to establish, maintain or work a telegraph within any part of [India]:

[Provided further that the Central Government may, by rules made under this Act and published in the Official Gazette, permit, subject to such restrictions and conditions as it thinks fit, the establishment, maintenance and working-

1. of wireless telegraphs on ships within Indian territorial waters [and on aircraft within or above [India], or Indian territorial waters], and
2. of telegraphs other than wireless telegraphs within any part of [India].
2. The Central Government may, by notification in the Official Gazette, delegate to the telegraph authority all or any of its powers under the first proviso to sub-section(1).

The exercise by the telegraph authority of any power so delegated shall be subject to such restrictions and conditions as the Central Government may, by the notification, think fit to impose.]

### **The Working Journalists And Other Newspaper Employees (Conditions Of service) And Miscellaneous Provisions Act, 1955.** The

said Act defines definition of working journalist as under:

2(f) " working journalist" means a person whose principal avocation is that of a journalist and<sup>4</sup> who is employed as such, either whole- time or part- time, in, or in relation to, one or more newspaper establishments], and includes an editor, a leader- writer, news editor, sub- editor, feature- writer, copy- tester, reporter, correspondent, cartoonist, news photographer and proof- reader, but does not include any such person who—

(i) is employed mainly in a managerial or administrative capacity, or

(ii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature;