

IN THE HIGH COURT OF DELHI AT NEW DELHI  
(EXTRAORDINARY JURISDICTION)  
WRIT PETITION (CIVIL) OF 2020

IN THE MATTER OF:

SUNIL KUMAR TIWARI

... PETITIONER

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

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NEW DLEHI

DATE:- 24.08.20

MUKESH KUMAR SINGH  
COUNSEL FOR PETITIONER

**SYNOPSIS**

1. By way of the instant writ petition, the Petitioner seeking a writ of mandamus, certiorari or any other appropriate writ, order or direction seeking against the respondents to provide financial assistance to Advocates enrolled with the Bar Council of Delhi without any discrimination on the ground of their residential address and stop their existing EMIs on their various Loans/Credits Card Payments etc. till the situation becomes normal.
2. That the Petitioner is an Advocate and duly enrolled with the Bar Council of Delhi and his enrolment numbers is D/2634/2009 and he is regularly practicing in various Courts of Delhi.
3. It is submitted that in the month of March 2020, due to global outbreak of COVID-19 pandemic, commonly known as “Corona virus outbreak”, India also became a victim of Covid-19 outbreak and the Central Government in order to curb the rapid rise of infected patients within the country, was constrained to announce a national lock down firstly for 21 days. In this regard, the Hon’ble the Prime Minister of India addressed the nation and announced the said lock down. The said announcement was given effect by an Order dated 24.03.2020 issued by the National Disaster Management Authority in exercise of the power under section 6(2)(1) of the National Disaster Management Act 2005. It is submitted that the said national Lock down was extended by the Respondent No.1, the Union of India from time to time and presently, Respondent no. 1 has issued unlock-3.0 which is

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presently applicable till 31.08.2020 in which Respondent no.1 has given some more relaxations to the citizens of India.

4. That it is submitted that most of the Advocates who come from middle class family and lower Middle class family are not able to survive and feed their family without financial assistance. That most of the Advocates who have their own home were/are paying huge EMI towards Home Loans, Car Loans, Credit Cards Payments and who are residing in rented accommodation are paying rent till today along with EMI of their other Loans.
5. That Advocates are not in a positions to pay their respective EMI of their loans viz. Home, Car, personal Loan and Credit Cards Payments etc and also unable to pay school fees etc. of their children. The schools are forcing them to pay their school fees on time, which advocates are not able to pay as their own work is totally stopped.
6. This has put advocates and people in similar situation in great difficulty and such action of the Respondent No. 3 clearly violates and is in contravention to the "right to life" guaranteed under Article 21 of the Constitution of India, 1950 wherein right to life includes right to livelihood, which is a prerequisite to the fundamental right guaranteed under Article 21 to people of India. In the present scenario, when all the means of livelihood has been curtailed by the Government of India by imposition of lock down, due to nationwide outbreak of Covid-19 pandemic, the Petitioner and other Advocates being citizen of India have no way to continue their work and earn livelihood and imposition of undue interest during the moratorium period has

defeated the very purpose of permitting moratorium on loans, Credit Cards Payments and etc. Needless to mention here that presently, Respondent No.1 announced Unlock-3 which is in force till 31.08.2020, is not in any way beneficial to Advocates, but left with no other option with petitioner Advocate, this moratorium ought to be extended which is not done by Respondent no.3.

7. That the Respondents have failed to announce any financial assistance scheme for Advocates' family till date. As reported in various News Papers so many Advocates in Delhi and other places committed suicide due to unavailability of funds with them leaving behind their widow, minor children and old parents.
8. That during these lock downs most of the Advocates are suffering from acute financial crisis, for which Bar Council of Delhi announced onetime financial help of Rs. 5000/- for indigent advocates, which is not all sufficient for their survival.
9. That respondent no.1 has given relief to Industry by way of Guarantee free Loans on minimal interest along with 12 months moratorium period on repayments. Respondents no. 1 have also given relief to labourers by giving them food, shelter etc. but, respondent no.1 have failed to announce any financial relief for Advocates and private company employees, who are mostly from middle class and lower middle class families.
10. That petitioner has also taken Home Loan, Car Loan, Personal Loan and Credit Cards facility from various Banks and presently, the Petitioner being an Advocate who is unemployed/without work is

unable to pay his EMIs and other payments in time. It is pertinent to mention here that petitioner herein has cleared his EMIs and other payments on time before March 2020. But due to extraordinary and unexpected circumstances prevailing today the petitioner is unable to repay his dues. It is submitted that not only petitioner but most of Advocates are facing the same difficulties in repaying their EMIs and their other payments on time for which bankers are imposing more interest on their outstanding dues, which are creating immense burden upon the petitioner as well as other Advocates.

11. That the petitioner is the affected party and also a borrower which has directly affected the petitioner and Respondents have failed to announce any financial assistance for Advocates.
12. That the respondent no.3 on 06.08.2020 announced for one-time restructuring of Corporate Loans, which is a welcome step. However, respondent no.3 has failed to announce any such scheme for Advocates and Middle Class people who have taken various loans like term loans viz. Home Loan, Personal Loan, Car Loan and credit cards payments etc. to fulfill their need and who have been paying every Installment on time before March 2020, are left in the lurch in this announcement.
13. That respondents ought to have understood the pain and sufferings of such individuals and Advocates whose income are in total jeopardy due to Covid-19 pandemic and if the moratorium is not extended, they will not be able to repay it and consequently the lenders/ Banker shall

humiliate these innocent people, which is likely to increase the suicide cases.

14. That when in this pandemic (Covid-19) situation, every individual in middle class are fighting for their bread only, then how they will pay their EMI on time and if they failed to pay these EMI to their Bankers, the Bankers will definitely put unnecessary pressure upon them and also degrade the good image of Advocates. Even Bankers viz. Kotak Mahindra Bank, HDFC Bank, ICICI Bank etc has started to give threat to petitioner and other borrowers for repayment of EMI of their pending Loan and other pending payments of Credit card, failing which they will visit their home, call to their relative and degrade the image of petitioner before his neighbours. It is pertinent to mention here that this is not a problem of only a petitioner, this problem of others Advocates too. Hence this writ Petition.

**NEW DELHI**

**DATE:- 24-08-2020**

**MUKESH KUMAR SINGH  
COUNSEL FOR PETITIONER**

IN THE HIGH COURT OF DELHI AT NEW DELHI  
(EXTRAORDINARY JURISDICTION)  
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SUNIL KUMAR TIWARI

... PETITIONER

VERSUS

UNION OF INDIA & ORS.

... RESPONDENTS

MEMO OF PARTIES

SUNIL KUMAR TIWARI  
ADVOCATE

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.... PETITIONER

VERSUS

1. UNION OF INDIA  
MINISTRY OF CORPORATE AFFAIRS  
'A' WING, SHASTRI BHAWAN,  
RAJENDRA PRASAD ROAD,  
NEW DELHI-110001  
THROUGH ITS SECRETARY
2. NCT OF DELHI  
DELHI SECRETARIAT,  
I.P. ESTATE  
NEW DELHI – 110002
3. RESERVE BANK OF INDIA  
Through Governor,  
6, Sansad Marg,  
New Delhi-110001

*[Faint, illegible text and signature]*

....RESPONDENTS

NEW DLEHI

DATE:- 24.08.2022

**MUKESH KUMAR SINGH**  
COUNSEL FOR PETITIONER

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**IN THE HIGH COURT OF DELHI AT NEW DELHI  
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WRIT PETITION (CIVIL) OF 2020**

**IN THE MATTER OF:**

**SUNIL KUMAR TIWARI**

**... PETITIONER**

**VERSUS**

**UNION OF INDIA & ORS.**

**... RESPONDENTS**

**WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA SEEKING A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION IN THE NATURE OF MANDAMUS TO PROVIDE THE FINANCIAL ASSISTANCE TO ADVOCATES FOR THEIR SURVIVAL AND STOP PAYMENT OF PENDING EMIS ON THEIR VARIOUS LOANS/CREDIT CARDS ETC. TILL THE SITUATION BECOMES NORMAL.**

**TO,**

**THE HON'BLE CHIEF JUSTICE  
OF THE DELHI HIGH COURT  
AND HIS COMPANION JUDGES  
OF THE HIGH COURT OF DELHI**

**THE HUMBLE PETITION  
OF THE PETITIONERS ABOVE  
NAMED**

**MOST RESPECTFULLY SHOWETH:**

1. That this is a writ petition under Article 226 of the Constitution of India, inter alia, praying for a writ of mandamus, certiorari or any other appropriate writ, order or direction seeking against the

respondents to provide financial assistance to Advocates enrolled with the Bar Council of Delhi without any discrimination on the ground of their residential address and stop their existing EMIs on their various Loans/Credits Card Payments etc. till the situation becomes normal.

2. That the Petitioner is an Advocate and duly enrolled with the Bar Council of Delhi and his enrolment numbers is \_\_\_\_\_ and he is regularly practising in various Courts of Delhi.
  
3. It is submitted that in the month of March 2020, due to global outbreak of COVID-19 pandemic, commonly known as “Corona virus outbreak”, India also became a victim of Covid-19 outbreak and the Central Government in order to curb the rapid rise of infected patients within the country, was constrained to announce a national lock down firstly for 21 days. In this regard, the Hon’ble the Prime Minister of India addressed the nation and announced the said lock down. The said announcement was given effect by an Order dated 24.03.2020 issued by the National Disaster Management Authority in exercise of the power under section 6(2)(1) of the National Disaster Management Act 2005. It is submitted that the said national Lock down was extended by the Respondent No.1, the Union of India from time to

time and presently, Respondent no. 1 has issued unlock-3.0 which is presently applicable till 31.08.2020 in which Respondent no.1 has given some more relaxations to the citizens of India. Copies of Circular are issued by Respondent No.1 annexed herewith as **Annexure- P1 (Colly)**.

4. That it is submitted that most of the Advocates who come from middle class family and lower Middle class family are not able to survive and feed their family without financial assistance. That most of the Advocates who have their own home were/are paying huge EMI towards Home Loans, Car Loans, Credit Cards Payments and who are residing in rented accommodation are paying rent till today along with EMI of their other Loans.
5. That Advocates are not in a positions to pay their respective EMI of their loans viz.. Home, Car, personal Loan and Credit Cards Payments etc and also unable to pay school fees etc. of their children. The schools are forcing them to pay their school fees on time, which advocates are not able to pay as their own work is totally stopped.
6. That the Respondent No.3 by way of its Notification dated 27.03.2020 has permitted all term Loans to grant a moratorium of 03 months on payments of all installments falling due between March 1 2020 and

May 31, 2020, which has been extended till 31.8.2020. However, while doing so, the Respondent No.3 has made clear that interest shall continue to accrue on the outstanding portion of the term loans, Credit Card Payments during the moratorium period. This action of imposition of interest during the moratorium period is devastating, completely wrong and defeats the very purpose of its importance for being brought into force. In a way, it has taken away the benefit of moratorium. This has put advocates and people in similar situation in great difficulty and such action of the Respondent No. 3 clearly violates and is in contravention to the "right to life" guaranteed under Article 21 of the Constitution of India, 1950 wherein right to life includes right to livelihood, which is a prerequisite to the fundamental right guaranteed under Article 21 to people of India. In the present scenario, when all the means of livelihood has been curtailed by the Government of India by imposition of lock down, due to nationwide outbreak of Covid-19 pandemic, the Petitioner and other Advocates being citizen of India have no way to continue their work and earn livelihood and imposition of undue interest during the moratorium period has defeated the very purpose of permitting moratorium on loans, Credit Cards Payments and etc. Needless to mention here that presently, Respondent No.1 announced Unlock-3 which is in force till

31.08.2020, is not in any way beneficial to Advocates, but left with no other option with petitioner Advocate, this moratorium ought to be extended which is not done by Respondent no.3. Copies circulars are issued by Respondent no.3 annexed herewith as **Annexure -2(Colly)**.

7. That the Respondents have failed to announce any financial assistance scheme for Advocates' family till date. As reported in various News Papers so many Advocates in Delhi and other places committed suicide due to unavailability of funds with them leaving behind their widow, minor children and old parents.
8. That during these lock downs most of the Advocates are suffering from acute financial crisis, for which Bar Council of Delhi announced onetime financial help of Rs. 5000/- for indigent advocates, which is not all sufficient for their survival.
9. That respondent no.1 has given relief to Industry by way of Guarantee free Loans on minimal interest along with 12 months moratorium period on repayments. Respondents no. 1 have also given relief to labourers by giving them food, shelter etc. but, respondent no.1 have failed to announce any financial relief for Advocates and private company employees, who are mostly from middle class and lower middle class families.

10. That petitioner has also taken Home Loan, Car Loan, Personal Loan and Credit Cards facility from various Banks and presently, the Petitioner being an Advocate who is unemployed/without work is unable to pay his EMIs and other payments in time. It is pertinent to mention here that petitioner herein has cleared his EMIs and other payments on time before March 2020. But due to extraordinary and unexpected circumstances prevailing today the petitioner is unable to repay his dues. It is submitted that not only petitioner but most of Advocates are facing the same difficulties in repaying their EMIs and their other payments on time for which bankers are imposing more interest on their outstanding dues, which are creating immense burden upon the petitioner as well as other Advocates.
11. That the petitioner is the affected party and also a borrower which has directly affected the petitioner and Respondents have failed to announce any financial assistance for Advocates.
12. That the respondent no.3 on 06.08.2020 announced for one-time restructuring of Corporate Loans, which is a welcome step. However, respondent no.3 has failed to announce any such scheme for Advocates and Middle Class people who have taken various loans like term loans viz. Home Loan, Personal Loan, Car Loan and credit cards payments etc. to fulfil their need and who have been paying every

Instalment on time before March 2020, are left in the lurch in this announcement.

13. That respondents ought to have understood the pain and sufferings of such individuals and Advocates whose income are in total jeopardy due to Covid-19 pandemic and if the moratorium is not extended, they will not be able to repay it and consequently the lenders/ Banker shall humiliate these innocent people, which is likely to increase the suicide cases.
14. That when in this pandemic (Covid-19) situation, every individual in middle class are fighting for their bread only, then how they will pay their EMI on time and if they failed to pay these EMI to their Bankers, the Bankers will definitely put unnecessary pressure upon them and also degrade the good image of Advocates. Even Bankers viz Kotak Mahindra Bank, HDFC Bank, ICICI Bank etc has started to give threat to petitioner and other borrowers for repayment of EMI of their pending Loan and other pending payments of Credit card, failing which they will visit their home, call to their relative and degrade the image of petitioner before his neighbours. It is pertinent to mentioned here that this is not a problem of only a petitioner, this problem of others Advocates too.

15. That the petitioner is filing the present Writ Petition before this Hon'ble Court, inter alia, on the following Grounds and craves liberty to modify and raise such additional grounds as maybe deemed appropriate:

**GROUND**

- A. **BECAUSE** the respondents have failed to announce any financial assistance for Advocates who have gone out of work due to sudden Nationwide Lockdown announced by the Respondent no. 1.
- B. **BECAUSE** the respondents have given adequate relief to business houses and the Industries but have completely ignored the other affected classes including Advocates.
- C. **BECAUSE** the respondents have failed to consider the fact that due to financial crisis so many advocates are committing suicide leaving behind their family in oblivion.
- D. **BECAUSE** the Bar Council of Delhi has given one time Rs. 5000/- as financial assistance to needy poor advocates, who are enrolled with Bar Council of Delhi.
- E. **BECAUSE** the impugned portion of Notification dated 27.03.2020 issued by the Respondent No.3 is ultra virus to the

extent that it charges interest on the loan amount during the moratorium period, which creates hardship in the present scenario of complete nationwide lock down being extended from time to time due to unexpected and extraordinary situation arising out of Covid-19 outbreak.

F. **BECAUSE** while granting the relief of moratorium during the lock down to borrowers, the action of imposition of interest during the moratorium period is completely devastating, wrong and in a way has taken away the benefit of providing moratorium. This has caused hindrance and obstruction in “right to life” guaranteed under Article 21 of the Constitution of India, 1950 in furtherance of right to life including right to livelihood which is a pre-requisite to fundamental right guaranteed under Article 21 to people of India.

G. **BECAUSE** in the present scenario, when all the means of livelihood in the part of advocates have been curtailed due to worldwide outbreak of Covid-19 pandemic and the Petitioner being a citizen of India has no way to continue his work and earn his livelihood and thus imposition of interest during the moratorium period will defeat the purpose of granting moratorium on loans.

- H. **Because** unlock-3.0 issued by the Respondent no.1 is also no way beneficial to the Advocates and their livelihood is still stopped and they are unable to earn their livelihood.
- I. **BECAUSE** the Petitioner herein is availing a facility of Home Loan, Car Loan, Personal Loan and Credit Card facility and since no work can be carried out by him under prevailing conditions and thus the Petitioner has no income and is therefore not in a position to pay his EMI and Credit Card Payments etc..
- J. **BECAUSE** due to continuous extension of lock down the Petitioner/Advocates will not be in a position to start his/their work in near future, it has created immense burden upon the Petitioner's budget. Therefore, Loan moratorium period should be extended for another 12 months.
- K. **BECAUSE** the word 'life' as employed by Article 21 takes in its sweep not only the concept of mere physical existence but also all finer values of life including the right to work and right to livelihood. This right is a fundamental right guaranteed to all persons residing in India, citizens and non-citizens alike, right to life including right to livelihood and work as guaranteed by Article 21 is not reduced to a mere paper platitude but is kept alive, vibrant and pulsating so that the country can effectively

march towards the a vowed goal of establishment of an egalitarian society as envisaged by the founding fathers while enacting the Constitution of India along with its Preamble.

- L. **BECAUSE** for the first time since independence, country is in stagnation in the present scenario. Thus, initially except the essential services like electricity, gas, water supply and broadcasting, financial services (banking) and, public administration, defence, etc., all other sectors have been completely shut and presently some sectors have become partially operational.
- M. **BECAUSE** the impugned portion of Notification dated 27.03.2020 issued by the Respondent No.3 is arbitrary and capricious to the extent that it imposes an over burden upon the borrowers like Petitioner. However, Petitioner has no other option except to opt this Loan Moratorium.
- N. **BECAUSE** the moratorium period which was extended by the respondent no.3 is going to end on 31.08.2020. Thereafter, advocates have to forcefully pay their outstanding dues.
- O. **BECAUSE** the respondent no. 3 vide its notification dated 06.08.2020 failed to extend the Loan Moratorium period which too necessary for the petitioner/Advocates and other borrowers

too whose work is totally suspended or their salary reduced by 50% to 70% by their employers.

- P. **BECAUSE** if the respondent no.3 would not extend the interest free Loan moratorium, petitioner/advocates who are fighting for their bread only, shall face much difficulties in repaying their EMI on time and if they failed to pay these EMI to their Banker, than Banker will make the unnecessary pressure upon them and also degrade the good image of Advocate petitioners.
- Q. **BECAUSE** unless the financial assistance to tune of Rs. 5,00,000/- (Rupees Five Lakh) given to each Advocate, the life to Advocates become more difficult and miserable which lead to more suicide cases in our country.
- R. **BECAUSE** this Hon'ble Court while sitting in Constitution Bench in the case of Olga Tellis v. Bombay Municipal Corpn., reported in (1985) 3 SCC 545 in Para. 47 held as; "*...justice must not only be done but must manifestly be seen to be done...It is for the person like petitioner affected by the proposed action which meets the requirement that justice must also be seen to be done.*"
- S. **BECAUSE** this Hon'ble Court has categorically observed that if there is a no obligation upon the State to secure the citizens and adequate means of livelihood and the right to work, it would be

sheer pedantry to exclude the right to livelihood from the content of the right to life.

T. **BECAUSE** this Hon'ble Court in the case of Delhi Transport Corporation D.T.C v. Mazdoor Congress and Others Reported in AIR 1991 SC 101 Court held as "*The right to life includes right to livelihood, the right to livelihood therefore cannot hang on to the fancies of individuals in authority. The employment is neither a bounty from them nor its survival is at their mercy. Income is the foundation of many fundamental rights and when work is the sole source of income, the right to work becomes as much fundamental. Fundamental rights can ill-afford to be consigned to the limbo of undefined premises and uncertain applications. That will be a mockery of them. Both the society and the individual employees, therefore, have an anxious interest in service conditions being well defined and explicit to the extent possible.*"

U. **BECAUSE** this Hon'ble Court in the case Chameli Singh & Ors. vs. State of U.P. and Anr. reported in (1996)2 SCC 549 held as; "*---- this Court had to examine the question whether the term 'life' as found in Article 21 would include all the components of right to life. Answering the question in the affirmative the*

*following pertinent observations were made in para 8 of the judgment: "In any organized society, right to live as a human being is not ensured by meeting only the animal needs of man. It is secured only when he is assured of all facilities to develop himself and is freed from restrictions which inhibit his growth. All human rights are designed to achieve this object. Right to life guaranteed in any civilized society implies the right to food, water, decent environment, education, medical care and shelter...."*

In view of this if the respondents do not provide financial assistance to Advocates and extend the Loan Moratorium, their fundamental rights under Article 21 of the Constitutions of India shall be violated and jeopardized.

- V. **BECAUSE** it must be taken as a settled legal position that Article 21 guarantees to all persons residing in India right to lead dignified life which would include right to get adequate livelihood and work and no procedural law can deprive them of this right unless such a law is enacted by competent legislature and is not in violation of any of the other fundamental rights especially Article 14 and 19(1)(g) of the Constitution of India.
- W. **BECAUSE** the term 'life' as envisaged under Article 21 must

necessarily encompass within its fold right to adequate livelihood and work so that the employment is not a bounty from them nor can its survival be at their mercy. Income is the foundation of many fundamental rights and when work is the sole source of income, the right to work becomes as much fundamental in the administration of justice.

- X. **BECAUSE** the Preamble of the Indian Constitution ensures Socio, Economic and Political justice, and provide a strong legal foundation to make the right to employment a reality. The word “socialist” was added in the preamble of the Constitution by the Forty-second Amendment in 1976 incorporating the philosophy of “socialism” aims at elimination of inequality in income and status and standard of life.
- Y. **BECAUSE** the Constitution of India incorporated the Directive Principles of the State Policy so that the State can initiate positive action in certain directions in order to promote the welfare of the people and achieve amelioration of the socio-economic conditions of the masses. The Constitution of India maintains a dichotomy between enforceable rights and unenforceable rights by incorporating fundamental rights and directive principles of the state policy. However, the directive

principles of the state policy have to reconcile with the rights available to the citizen under Part III of the Constitution and the obligation of the state to one and all and not to a particular group of citizens.

Z. **BECAUSE** Article 41 provides that the State shall within the limits of its economic capacity and development, make effective provision for securing the right to work, to education and to public, assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want.

16. Therefore, in these extraordinary circumstances, as stated above, the Petitioner is constrained to approach this Hon'ble Court for enforcement of Fundamental Rights by way of present Writ Petition under Article 226 of the Constitution of India.

17. That the Petitioner has not filed any other Petition or Writ Petition before this Hon'ble Court or before any other Court of law for seeking the relief as prayed in the present Writ Petition.

18. That treats the present writ petition as Public interest Litigation in the interest of public at large.

### **PRAYER**

In view of these facts and circumstances, it is respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a) Issue an appropriate Writ, Order or Direction in the nature of mandamus or any other appropriate Writ or Direction against the respondents to provide the financial Assistance to Advocates enrolled with Bar Council of Delhi without discrimination on the ground of residential address or voter id; and
- b) Issue a Writ, Order or Direction in the nature of Mandamus there by directing the Respondent no.1 and 3 to extend the moratorium period for repayment of term Loan/Credit Cards for another 12 months or until the situation becomes normal and waive the interest completely or charge at savings bank rate of interest for advocates during the moratorium period /or
- c) Pass any other order or orders which may be deemed fit and proper in the facts and circumstances of the case and in the interest of justice.

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

**PETITIONER**

**THROUGH**

**NEW DLEHI**

**DATE:- 24.08 20**

**MUKESH KUMAR SINGH  
COUNSEL FOR PETITIONER**