

IN THE HIGH COURT OF DELHI AT NEW DELHI

Civil Writ Jurisdiction

Writ Petition (Civil) No. _____ of 2020

In the matter of:

Syed Mujtaba Athar & Anr. ...Petitioners

Versus

Union of India & Ors. ...Respondents

Writ Petition under Article 226 of the Constitution of India seeking a Writ of Mandamus or such other appropriate writ for quashing of Respondent No.1's order dated 09.09.2020, bearing No. F.No.41012/16/2020/-BC-III refraining from prohibiting Respondents No. 2 and 3 from telecasting the show 'Bindas Bol' on the topic of entry of Muslims and Jamia alumni into civil services, along with consequential directions

1. THE CHALLENGE:

1.1. This Petition challenges the Ministry of Information and Broadcasting's (Respondent No.1) order dated 09.09.2020, bearing No. F.No.41012/16/2020/-BC-III ("Impugned Order") which arises from the show-cause proceedings initiated by Respondent No.1 by its notice dated 28.08.2020 to:

- a. assess, if the proposed telecast by Respondents No. 2 and 3 of the show 'Bindas Bol' on the topic UPSC Jihad (concerning entry of Muslims and Jamia alumni into civil services) ("Proposed Show") violates the Programme

Code and Section 19 of the Cable Television Networks (Regulation) Act 1995 (“**Cable TV Act**”) by promoting feelings of enmity, hatred or ill-will against the Muslim community and their place in India’s democratic institutions; and

b. then decide if it ought to exercise its explicit powers under Sections 19 and 20 of the Cable TV Act to prohibit the transmission of the Proposed Show in case the Proposed Show is found to be in violation of the Programming Code and Section 19 of the Cable TV Act

1.2. By the Impugned Order, Respondent No.1 has refrained from exercising its powers under Sections 19 and 20 of the Cable TV Act to prohibit the Proposed Show. The Impugned Order is a non-speaking order and for the purposes of adjudicating this Petition, only one paragraph of the Impugned Order is relevant which contains the entirety of reasoning and decision of Respondent No.1:

“Having regard to the aforementioned facts and circumstances of the case, Sudarshan TV channel is hereby directed to ensure that the programme proposed to be telecast does not violate any of the programme codes. If any violation of the programme code is found, action as per law will be taken.”

A true copy of Respondent No.1's impugned order dated 09.09.2020, bearing No. F.No.41012/16/2020/-BC-III is annexed herewith as **Annexure P-1**.

1.3. The Impugned Order was passed pursuant to the order of this Hon'ble Court ((through Justice Navin Chawla) dated 29.08.2020 in *Syed Mujtaba Athar & Ors. v. Union of India & Ors. W.P.(C) 5792 of 2020*. This Petition is also being filed pursuant to the liberty given by this Hon'ble Court in its order dated 29.08.2020 to challenge the Impugned Order. A true copy of the order dated 29.08.2020 passed by this Hon'ble Court in WP(C) No. 5792 of 2020 is annexed herewith as **Annexure P-2**.

1.4. For ease of reference, the relevant statutory provisions, i.e. the Cable TV Act and the Programme Code are also annexed. A true copy of the Cable Television Networks (Regulation) Act, 1995 is annexed herewith as **Annexure P-3**. A true copy of the Programme Code is annexed herewith as **Annexure P-4**.

2. PARTIES

- 2.1. The Petitioners herein are alumni of Jamia Milia Islamia:
- a. Petitioner No. 1 is a graduate of the Faculty of Law, Jamia Milia Islamia (2010-15) and is a civil servant aspirant. He has subsequently pursued an LL.M. specialising in international law from South Asian University, and is

- presently enrolled as a research scholar at the Faculty of Law, Jamia Milia Islamia.
- b. Petitioner No. 2 is a Mass Media graduate from Jamia Milia Islamia (2012-2015).
- 2.2. The Petitioners herein are directly impacted by the Proposed Show in as much its promo describes the alumni of Jamia Milia Islamia as “Jihadis”, conspiring to infiltrate the civil services in India. The Petitioners had filed the Writ Petition *Syed Mujtaba Athar & Ors. v. Union of India & Ors. W.P.(C) 5792 of 2020* before this Hon’ble Court seeking prohibition of the broadcast of the Proposed Show, which was initially scheduled to be broadcast at 8:00 p.m. on 28.08.2020.
- 2.3. Respondent No.1 herein is the Ministry of Information and Broadcasting, Government of India, which has passed the Impugned Oder.
- 2.4. Respondent No.2 is Sudarshan News and Respondent No.3 is the Editor-in-Chief of Sudarshan News. Respondents No.2 and 3 are intending to broadcast the Proposed Show, which adversely affects the image of the Petitioners herein, on 11.09.2020 at 8:00 pm.

3. FACTS UNDERLYING THE PETITION

3.1. On 25.08.2020, Respondent No.3 uploaded on Twitter.com the promo for the Proposed Show, available at the link <https://mobile.twitter.com/SureshChavhanke/status/1298268925973602308?s=09>. The entire 47-second video clip spews hatred and vitriol towards Jamia Milia Islamia, its alumni and the Muslim community in India. For ease of reference, the transcription and translation of the entire video clip is set out below:

“Massive disclosure of the infiltration of Muslims in Government Service. After all, how have suddenly Muslims increased in IPS and IAS? What is the secret of clearing the most difficult exam, obtaining maximum marks and getting entry in maximum numbers. Think if a Jihadi from Jamia becomes your District Collector or Secretary in every Ministry then what will happen? We expose the design to occupy the most important pillar of democracy, the Civil Service. See our maha-abhiyan on Civil Service Jihad on Friday, 28th August from 8 pm onwards in Bindas Bol with me.”

3.2. The promo ends with a caption “Big Exposé on Conspiracy to infiltrate Muslims in Government Service”. A true copy of the snapshot of the tweet dated 25.08.2020 of Respondent

No. 3, along with its translated copy, is annexed herewith as **Annexure P-5**.

- 3.3. As per the said promo, the Proposed Show was scheduled to be telecast on 28.08.2020 at 8:00 pm.
- 3.4. The promo and the Proposed Show were severely criticized for being hate speech and an attack on the Muslim community in India. A true copy of a tweet dated 27.08.2020 by the I.P.S. Association condemning Proposed Show is annexed herewith as **Annexure P-6**.
- 3.5. On 27.08.2020, on viewing the promo of the Proposed Show, Petitioner No.1 herein also sent a complaint to the Respondent No.1 highlighting how the promo and the Proposed Show constituted hate speech and defamation and were in violation of the Cable TV Act and the Programme Code. A true copy of the complaint email dated 27.08.2020 sent by Petitioner No.1 to Respondent No.1 is annexed herewith as **Annexure P-7**.
- 3.6. Given the paucity of time, the Petitioners herein also approached this Hon'ble Court by filing the Writ Petition *Syed Mujtaba Athar & Ors. v. Union of India & Ors. W.P.(C) 5792 of 2020* on 28.08.2020, seeking a direction to Respondent No.1 to prohibit the broadcast of the Proposed Show.

- 3.7. In the meanwhile, on 28.08.2020, Respondent No.1 issued a show-cause notice to Respondents No.2 and 3 in connection with the Proposed Show in light of various complaints. Taking note of the said show-cause notice, this Hon'ble Court was pleased to pass an order dated 28.08.2020 in W.P.(C) 5792 of 2020 granting interim stay on the broadcast of the Proposed Show. A true copy of the order dated 28.08.2020 passed by this Hon'ble Court in WP(C) No. 5792 of 2020 is annexed herewith as **Annexure P-8**.
- 3.8. On the same day, after the order of this Hon'ble Court, the Hon'ble Supreme Court passed an order dated 28.08.2020 in another petition filed against the Proposed Show, being ***Firoz Iqbal Khan v Union of India, WP(C) 956/2020***, declining to grant an interim stay on the broadcast of the Proposed Show as what was produced before the Supreme Court was an unverified transcript of the promo of the Proposed Show. Moreover, the Supreme Court was not aware that Respondent No.1 had already issued a show-cause notice to Respondents No.2 and 3 in connection with the Proposed Show. Nevertheless, the Supreme Court held that it shall be open to the authorities to proceed in accordance with law. A true copy of the order dated 28.08.2020 passed by the Hon'ble Supreme Court in WP(C) No. 956 of 2020 is annexed herewith as **Annexure P-9**.

- 3.9. Placing reliance on the said order of the Supreme Court, Respondents No.2 and 3 filed an application before this Hon'ble Court on 29.08.2020 seeking a vacation of this Court's interim stay order dated 28.08.2020 passed in WP(C) 5792/2020.
- 3.10. Consequently, this Hon'ble Court passed an order on 29.08.2020 disposing of WP(C) 5792/2020 with a direction to Respondent No.1 to take a decision on the prohibition of the Proposed Show pursuant to its show-cause notice dated 28.08.2020 and a direction to Respondents No.2 and 3 to not broadcast the Proposed Show till such time Respondent No.1 took the said decision.
- 3.11. Subsequently, on 08.09.2020, Petitioner No.1 sent an email to Respondent No.1 seeking details of steps undertaken by it in compliance with the order dated 29.08.2020 of this Hon'ble Court. A true copy of the email dated 08.09.2020 sent by Petitioner No.1 to Respondent No.1 is annexed herewith as **Annexure P-10**.
- 3.12. On 09.09.2020, Respondent No.1 passed the Impugned Order, refraining from prohibiting the broadcast of the Proposed Show, but without giving any reasons whatsoever.
- 3.13. Respondent No. 3 tweeted at 10:59 p.m. on 09.09.2020 stating that he had "big good news" to share in the morning. A true copy of Respondent No.3's tweet dated 09.09.2020,

along with a translated copy, is annexed herewith as **Annexure P-11**.

3.14. Consequently, on 10.09.2020, Respondent No.3 tweeted at 9:41 a.m. the following (translated into English):

“Satyameva Jayate

The High Court had asked for the opinion of the Government of India on the stay imposed on Sudarshan News- the Government has declined to issue a prior restraint on the broadcast.

The Supreme Court had already decreed this, now watch a historic episode of Bindas Bol on # UPSC Jihad on Friday at 8 p.m.”

Along with the tweet, Respondent No.3 reuploaded the promo for the Proposed Show. A true copy of Respondent No.3’s tweet dated 10.09.2020, along with a translated copy, is annexed herewith as **Annexure P-12**.

3.15. After seeking the said tweet, later on 10.09.2020, the advocate of the Petitioners, obtained a copy of the Impugned Order from Respondent No.1, vide an email sent by Respondent No.1. A copy of the email dated 10.09.2020 sent by Respondent No.1 to the Petitioners’ advocate is annexed herewith as **Annexure P-13**.

3.16. Given that the Impugned Order suffers from non-application of mind and is a non-speaking order and pursuant thereto,

Respondents No. 2 and 3 have decided to broadcast the Proposed Show at 8:00 p.m. on 11.09.2020, which is full of hate speech and in violation of the Cable TV Act and the Programme Code, the present Petition has been filed.

4. GROUND

- 4.1. That the Impugned Order is a non-speaking order that has been passed without any application of mind, and suffers from an abject lack of reasoning. The entire rationale behind the Impugned Order permitting the Proposed Show to be telecast is contained in a single paragraph, which is reproduced hereunder.

“Having regard to the aforementioned facts and circumstances of the case, Sudarshan TV channel is hereby directed to ensure that the programme proposed to be telecast does not violate any of the programme codes. If any violation of programme code is found, action as per law will be taken.”

- 4.2. That Respondent No. 1 was required to make an assessment about whether the Proposed Show and the promo violated the Programme Code both in exercise of its powers under Sections 5, 19 and 20 of the Cable TV Act and as per the directions of this Hon’ble Court in its order dated 29.08.2020 in **Syed Mujtaba Athar (Supra)**, before permitting the Proposed Show to be aired on television. However, this assessment has not been undertaken by the Respondent No.

1 and the Impugned Order fails to make any determination whatsoever as to whether the Proposed Show and its promo violate the Programme Code.

- 4.3. That Respondent No.1 appears to have been under the wrong impression that it does not have the power to take any action in respect of the Proposed Show violating the Programme Code because it has not yet been telecast, which is a position that is wrong both on facts and in law. In the first instance, the trailer for the Proposed Show, which gives a full idea about the contents of the Proposed Show, had already been telecast several times. Further, Section 19 of the Cable TV Act specifically empowers the Respondent No. 1 to take action against a broadcast that has not yet been aired on the basis of a “likelihood” that the programme may *inter alia* promote feelings of enmity, hatred or ill-will between different religious groups. It is pertinent to note that the Impugned Order makes no reference to Section 19 of the Cable TV Act, despite its applicability to the present circumstances being clearly noted by this Hon’ble Court in its order dated 29.08.2020 in **Syed Mujtaba Athar (Supra)**.
- 4.4. That Section 5 of the Cable TV Act imposes a clear prohibition on the broadcast of any programme that violates the Programme Code:

“5. Programme code.—No person shall transmit or re-transmit through a cable service any programme

unless such programme is in conformity with the prescribed programme code...”

4.5. That Section 19 of the Cable TV Act states:

“19. Power to prohibit transmission of certain programmes in public interest.—Where ²⁶[any authorised officer] authorised, thinks it necessary or expedient so to do in the public interest, he may, by order, prohibit any cable operator from transmitting or re-transmitting ²⁷[any programme or channel if, it is not in conformity with the prescribed programme code referred to in Section 5 and advertisement code referred to in Section 6 or if it is] likely to promote, on grounds of religion, race, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, linguistic or regional groups or castes or communities or which is likely to disturb the public tranquillity.”(emphasis supplied)

4.6. That Section 20 of the Cable TV Act states:

“20. Power to prohibit operation of cable television network in public interest.—(1) Where the Central Government thinks it necessary or expedient so to do in public interest, it may prohibit the operation of any

cable television network in such areas as it may, by notification in the Official Gazette, specify in this behalf.

(2) Where the Central Government thinks it necessary or expedient so to do in the interest of the—

(i) sovereignty or integrity of India; or

(ii) security of India; or

(iii) friendly relations of India with any foreign State; or

(iv) public order, decency or morality,

it may, by order, regulate or prohibit the transmission or re-transmission of any channel or programme.

(3) Where the Central Government considers that any programme of any channel is not in conformity with the prescribed programme code referred to in Section 5 or the prescribed advertisement code referred to in Section 6, it may by order, regulate or prohibit the transmission or re-transmission of such programme.” (emphasis supplied)

- 4.7. That the Impugned Order of the Respondent No. 1 thus clearly appears to be a mala-fide and deliberate decision to not exercise clear statutory powers existing under Section 19 and Section 20(3) of the Cable TV Act despite the Proposed Show violating the Programme Code and being highly likely

to promote disharmony and feelings of enmity, hatred or ill-will against students of Jamia Milia Islamia in particular and the Muslim community in general.

- 4.8. That the Respondent No. 1 passed the Impugned Order without calling upon the Respondent No. 2 to furnish any details regarding the contents of the Proposed Show including *inter alia* a pre-viewing, script or a summary of its contents. The Respondent No. 1 has relied entirely on an unsubstantiated submission by the Respondent No. 2 that the Proposed Show does not violate the Programme Code. Thus, the Impugned Order was passed in the absence of any actual material demonstrating that the Proposed Show does not violate the Programme Code.
- 4.9. That the Impugned Order has been passed without considering the material available on record i.e. the trailer for the Proposed Show, which launches a frontal hate speech attack on students of Jamia Milia Islamia (by calling them “jihadis”) and Muslims by claiming that they are fifth columnists seeking to destroy democracy by infiltrating the civil service. While the Respondent No. 1 has specifically noted in the Impugned Order that the promo/trailer for the Proposed Show was already telecast on the Respondent No. 2 channel multiple times, it has deliberately omitted to draw a direct and obvious link between the contents of the trailer and that of the Proposed Show, and has chosen to not make

a determination on whether both the Proposed Show and the trailer violate the Programme Code.

4.10. That the Hon'ble Supreme Court has observed in *East Coast Railway & Anr. v. Mahadev Appa Rao & Ors. (2010) 7 SCC 678* that:

“23. Arbitrariness in the making of an order by an authority can manifest itself in different forms. Non-application of mind by the authority making the order is only one of them. Every order passed by a public authority must disclose due and proper application of mind by the person making the order. This may be evident from the order itself or the record contemporaneously maintained. Application of mind is best demonstrated by disclosure of mind by the authority making the order. And disclosure is best done by recording the reasons that led the authority to pass the order in question. Absence of reasons either in the order passed by the authority or in the record contemporaneously maintained is clearly suggestive of the order being arbitrary hence legally unsustainable.

24. In the instant case the order passed by the competent authority does not state any reasons whatsoever for the cancellation of the typing test. It is nobody's case that any such reasons were set out

even in any contemporaneous record or file. In the absence of reasons in support of the order it is difficult to assume that the authority had properly applied its mind before passing the order cancelling the test...

29. That is not, however, the position in the instant case. The order of cancellation passed by the competent authority was not preceded even by a prima facie satisfaction about the correctness of the allegations made by the unsuccessful candidates leave alone an inquiry into the same. The minimum that was expected of the authority was a due and proper application of mind to the allegations made before it and formulation and recording of reasons in support of the view that the competent authority was taking. There may be cases where an enquiry may be called for into the allegations, but there may also be cases, where even on admitted facts or facts verified from record or an enquiry howsoever summary the same maybe, it is possible for the competent authority to take a decision, that there are good reasons for making the order which the authority eventually makes. But we find it difficult to sustain an order that is neither based on an enquiry nor even a prima facie view taken upon a due and proper application of mind to the relevant facts. Judged by that standard the

order of cancellation passed by the competent authority falls short of the legal requirements and was rightly quashed by the High Court.” (emphasis supplied)

4.11. That the Hon’ble Supreme Court has held in **K.A. Abbas v. Union of India (1970) 2 SCC 780**:

“41. With this preliminary discussion we say that censorship in India (and precensorship is not different in quality) has full justification in the field of the exhibition of cinema films. We need not generalize about other forms of speech and expression here for each such fundamental right has a different content and importance. The censorship imposed on the making and exhibition of films is in the interests of society. If the regulations venture into something which goes beyond this legitimate opening to restrictions, they can be questioned on the ground that a legitimate power is being abused. We hold, therefore, that censorship of films including prior restraint is justified under our Constitution.”
(emphasis supplied)

4.12. That the Hon’ble Supreme Court has also held that prior restraint on speech is constitutionally permissible across different contexts in **Sahara Indian Real Estate Corporation v. SEBI (2012) 10 SCC 603**, **Virendra v. State of Punjab**

AIR 1957 SC 896 and *Reliance Petrochemicals Ltd. v. Indian Express Newspapers Bombay (P) Ltd. (1988) 4 SCC 592*. In the present instance, Section 19 of the Cable TV Act specifically empowers the Respondent No. 1 to impose a prior restraint on broadcasts that are likely to violate the Programme Code and cause enmity, hatred and ill-will against *inter alia* religious groups.

- 4.13. That the right to freedom of speech and expression of the Respondent No. 2 is subject to laws imposing reasonable restrictions on *inter alia* “incitement to an offence” under Article 19(2). The highly inflammatory trailer, which is replete with hate speech, is “intrinsically dangerous to the public interest” as it can incite physical violence including *inter alia* lynching against Muslims in general and students of Jamia Milia Islamia in particular. Consequently, there is a direct and tangible harm that is likely to result from the broadcast of the Proposed Show that meets the standard for restricting free speech laid down by the Hon’ble Supreme Court in *S. Rangarajan v. P. Jagjivan Ram (1989) 2 SCC 574 (See Para 45)*.
- 4.14. That the trailer and the Proposed Show is clearly hate speech and not just offensive speech. Offensive speech is, simply, speech that may cause feelings of offence in one person and not in another. Whether it offends even a target of that speech may depend on person to person. However, hate speech

objectively has the effect of undermining constitutional equality, sending a message that a person or a group of people are not worthy of equal concern of respect, are not equal members of society and therefore fit to be discriminated against.

- 4.15. That the trailer and Proposed Show, being hate speech, constitute an offence under Sections 153, 154 and 295 of the IPC.

Section 153A(1) of the IPC states:

“153A. Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.—

(1) Whoever—

(a) by words, either spoken or written, or by signs or by visible representations or otherwise, promotes or attempts to promote, on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever, disharmony or feelings of enmity, hatred or ill-will between different religious, racial, language or regional groups or castes or communities, or

(b) commits any act which is prejudicial to the maintenance of harmony between different

religious, racial, language or regional groups or castes or communities, and which disturbs or is likely to disturb the public tranquillity, [or]

(c) organizes any exercise, movement, drill or other similar activity intending that the participants in such activity shall use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to use criminal force or violence or participates in such activity intending to use or be trained to use criminal force or violence or knowing it to be likely that the participants in such activity will use or be trained to the use of criminal force or violence, against any religious, racial, language or regional group or caste or community and such activity for any reason whatsoever causes or is likely to cause fear or alarm or a feeling of insecurity amongst members of such religious, racial, language or regional group or caste or community,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.”

(emphasis supplied)

Section 153B(1) of the IPC states:

“153B. Imputations, assertions prejudicial to national integration.—

(1) Whoever, by words either spoken or written or by signs or by visible representations or otherwise, —

(a) makes or publishes any imputation that any class of persons cannot, by reason of their being members of any religious, racial, language or regional group or caste or community, bear true faith and allegiance to the Constitution of India as by law established or uphold the sovereignty and integrity of India, or

(b) asserts, counsels, advises, propagates or publishes that any class of persons shall, by reason of their being members of any religious, racial, language or regional group or caste or community, be denied or deprived of their rights as citizens of India, or

(c) makes or publishes any assertion, counsel, plea or appeal concerning the obligation of any class of persons, by reason of their being members of any religious, racial, language or regional group or caste or community, and such assertion, counsel, plea or appeal causes or is likely to cause disharmony or feelings of enmity or hatred or ill-will between such members and other persons,

shall be punished with imprisonment which may extend to three years, or with fine, or with both.”

(emphasis supplied)

4.16. This Hon’ble Court has noted the importance of prohibiting hate speech in *Pravasi Bhalai Sangathan v. Union of India (2014) 11 SCC 477*:

“8. Hate speech is an effort to marginalise individuals based on their membership in a group. Using expression that exposes the group to hatred, hate speech seeks to delegitimise group members in the eyes of the majority, reducing their social standing and acceptance within society. Hate speech, therefore, rises beyond causing distress to individual group members. It can have a societal impact. Hate speech lays the groundwork for later, broad attacks on vulnerable that can range from discrimination, to ostracism, segregation, deportation, violence and, in the most extreme cases, to genocide. Hate speech also impacts a protected group’s ability to respond to the substantive ideas under debate, thereby placing a serious barrier to their full participation in our democracy...

27. As referred to hereinabove, the statutory provisions and particularly the penal law provide sufficient remedy to curb the menace of “hate

*speeches”. Thus, person aggrieved must resort to the remedy provided under a particular statute. **The root of the problem is not the absence of laws but rather a lack of their effective execution. Therefore, the executive as well as civil society has to perform its role in enforcing the already existing legal regime. Effective regulation of “hate speeches” at all levels is required as the authors of such speeches can be booked under the existing penal law and all the law enforcing agencies must ensure that the existing law is not rendered a dead letter. Enforcement of the aforesaid provisions is required being in consonance with the proposition *salus reipublicae suprema lex* (safety of the State is the supreme law)”** (emphasis supplied)*

- 4.17. Hate speech, or openly discriminatory speech, seeks to actively dehumanise certain groups and rob them of social, economic and political agency as well as dignity. The noted scholar Jeremy Waldron has written (“*The Harm in Hate Speech*”, p. 5):

“The second way of describing what’s at stake looks at it from the point of view of those who are meant to benefit from the assurance that is thrown in question by the hate speech. In a sense we are all supposed to benefit. But for the members of vulnerable minorities,

minorities who in the recent past have been hated or despised by others within the society, the assurance offers a confirmation of their membership: they, too, are members of society in good standing; they have what it takes to interact on a straightforward basis with others around here, in public, on the streets, in the shops, in business, and to be treated—along with everyone else—as proper objects of society’s protection and concern. This basic social standing, I call their dignity. A person’s dignity is not just some Kantian aura. It is their social standing, the fundamentals of basic reputation that entitle them to be treated as equals in the ordinary operations of society. Their dignity is something they can rely on—in the best case implicitly and without fuss, as they live their lives, go about their business, and raise their families.

The publication of hate speech is calculated to undermine this. Its aim is to compromise the dignity of those at whom it is targeted, both in their own eyes and in the eyes of other members of society. And it sets out to make the establishment and upholding of their dignity—in the sense that I have described—much more difficult. It aims to besmirch the basics of their reputation, by associating ascriptive characteristics like ethnicity, or race, or religion with

conduct or attributes that should disqualify someone from being treated as a member of society in good standing.” (emphasis supplied)

- 4.18. The dehumanising effect of hate speech violates the right to equality under Article 14 as well as the right to life and personal liberty under Article 21. Waldron’s exposition of the impact of hate speech on “dignity” demonstrates this, and shows how a member of the targeted community ceases to be treated as a member of society. Consequently, hate speech does not just passively discriminate against people of a particular community but leads to actual discrimination against them with a view to curtailing their participation in social, economic and political life.
- 4.19. That the Petitioners are relying on the following judgments in the present writ petition:
- a. **Pravasi Bhalai Sangathan v. Union of India (2014) 11 SCC 477**, a true copy of which is annexed herewith as **Annexure P-14**.
 - b. **East Coast Railway & Anr. v. Mahadev Appa Rao & Ors. (2010) 7 SCC 678**, a true copy of which is annexed herewith as **Annexure P-15**.
 - c. **K.A. Abbas v. Union of India (1970) 2 SCC 780**, a true copy of which is annexed herewith as **Annexure P-16**.

- d. **Sahara Indian Real Estate Corporation v. SEBI (2012) 10 SCC 603**, a true copy of the relevant extract of which is annexed herewith as **Annexure P-17**.
 - e. **Babu Rao Patel v. State (Delhi Administration) (1980) 2 SCC 402**, a true copy of which is annexed herewith as **Annexure P-18**.
- 4.20. That the Petitioners pray for leave to raise additional grounds at a later stage.
5. That this Hon'ble Court has jurisdiction to hear the present petition. This Hon'ble Court had granted the Petitioners the liberty to challenge the Impugned Order in accordance with law vide its order dated 29.08.2020 in **Syed Mujtaba Athar (Supra)**. The Respondent No.1, whose Impugned Order is being challenged in the present petition, is situated in the NCT of Delhi. Further, the Respondent No. 3 published his tweet announcing the Proposed Show on an all-India platform (Twitter), and the trailer for the same has been broadcast in *inter alia* the NCT of Delhi. The Proposed Show is also slated to be telecast on the Respondent No.2 channel at 8 p.m. on 11.09.2020 in *inter alia* the NCT of Delhi. Accordingly, the cause of action in the present petition has arisen within the territorial jurisdiction of this Hon'ble Court.

6. The Petitioners submit that there is no other appropriate, alternative, efficacious remedy available to the Petitioners except to file this present Writ Petition.
7. The Petitioners have not filed any similar petition in this Hon'ble High Court or in any other Court.
8. This Petition is bonafide and in the interest of justice.

9. PRAYER

- 9.1. In light of abovementioned facts and submissions, it is prayed that this Hon'ble Court may be pleased to:
 - a. Issue a Writ of Mandamus or such other appropriate writ, order or direction for quashing of Respondent No.1's order dated 09.09.2020, bearing No. F.No.41012/16/2020/-BC-III;
 - b. direct Respondent No.1 to reassess the legality of Respondent No. 2's and 3's show 'Bindas Bol' on the topic of entry of Muslims and Jamia alumni into civil services and its promo in accordance with law and decide if the broadcast of the same needs to be prohibited in exercise of Respondent No.1's powers under Sections 19 and 20 of the Cable TV Act or any other applicable law;
 - c. direct Respondents No.2 and 3 to not broadcast their show 'Bindas Bol' on the topic of entry of Muslims and Jamia alumni into civil services and its promo till Respondent No.1 reassesses, and decides, if the

broadcast of the show needs to be prohibited in exercise of Respondent No.1's powers under Sections 19 and 20 of the Cable TV Act or any other applicable law; and/or

- d. pass such other orders as may be necessary in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE PETITIONERS AS ARE DUTY BOUND SHALL EVER BE GRATEFUL

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Date: 11.09.2020