

IN THE SUPREME COURT OF INDIA  
CRIMINAL ORIGINAL JURISDICTION

**WRIT PETITION [CRIMINAL] NO. \_\_\_\_\_ OF 2020**

[Under Article 32 of the Constitution of India read with Order  
XXXVIII, Rule 12 (1) (d) & 2 of The Supreme Court Rules,  
2013)

**BETWEEN:**

1. Vishal Thakre,

**AND**

1. Union of India –  
Thru-Cabinet Secretary  
Rashtrapati Bhawan  
New Delhi - 110003
  
  2. Chief Secretary Uttar Pradesh  
Government of Uttar Pradesh  
Room NO. 10, Lok Bhawan,  
U.P. Civil Secretariat  
Vidhansabha Marg  
Lucknow, Uttar Pradesh – 226 001
  
  3. Secretary Law and Order  
Govt. of Uttar Pradesh.
  
  4. Chief Secretary, (Home)  
Uttarakhand Secretariat  
4, Subhash Road, Irrigation Colony,  
Karanpur, Dehradun, Uttarakhand  
Dehradun-24800, (Uk.)
- ...Respondents

**ALL ARE CONTESTING RESPONDENTS**

*WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA READ WITH ORDER XXXVIII, RULE 12 (1) (D) & 2 OF THE SUPREME COURT RULES, 2013 TO ISSUE AN WRIT OF MANDAMUS DIRECTING/ DECLARING THE PROVISIONS OF THE ORDINANCE/S “THE UTTAR PRADESH PROHIBITION OF UNLAWFUL CONVERSION OF RELIGION ORDINANCE, 2020 AND THE UTTARAKHAND FREEDOM OF RELIGION ACT, 2018 TO BE ULTRA VIRUS, AND DIRECT THE AUTHORITIES NOT TO GIVE EFFECT TO THE ORDINANCE PASSED BY THE CONCERNED STATE GOVERNMENTS.*

To,

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

THE HUMBLE PETITION OF THE  
PETITIONER ABOVE NAMED

**MOST RESPECTFULLY SHOWETH:-**

1. The present Writ petition is being filed Under Article 32 of the Constitution of India, by the petitioners before this Hon'ble Court, being aggrieved by the recently ordinance passed by the two states in the name of "Love Jihad" which curtails the Fundamental Rights of the citizen of India which has been provided in third part of the our Constitution, Petitioner No. 1 is a Practicing Advocate in various Court of Delhi, and New Delhi, and before this Hon'ble Court, Petitioner No. 2 is also a Practicing Advocate in Delhi and Petitioner No. 3 is Law Researcher pursuing PhD. in law, from CMP Degree College, Allahabad University, Allahabad and both the petitioner has the Locus to file the present petition as the petitioners are aggrieved of Ordinance passed by the State Government and knocking at the door of this Hon'ble Court and are praying before this Hon'ble Court that the Law passed by the State of Uttar Pradesh and Uttarakhand, (Uk.) in against the Love Jihad and punishments thereof may be declared Ultra Virus and null and Void, because it disturbs the basic Structure of the Constitution as laid down by the Law. The Ordinance passed by the State of Uttar Pradesh,

U.P) and Uttarakhand, (Uk.) is against the Public Policy and society at large.

2. The relief mainly sought in the present W P (Crl.) against the respondents and concerned Authorities.

2. **FACTS OF THE CASE:**

The Brief Facts giving rise to the present petition are as follows:

- 2.1 The present Writ petition is being filed Under Article 32 of the Constitution of India, by the petitioners before this Hon'ble Court, being aggrieved by the recently ordinance passed by the two states in the name of "Love Jihad" which curtails the Fundamental Rights of the citizen of India which has been provided in third part of the our Constitution, Petitioner No. 1 is a Practicing Advocate in various Court of Delhi, and New Delhi, and before this Hon'ble Court, Petitioner No. 2 is also a Practicing Advocate in Delhi and Petitioner No. 3 is Law Researcher pursuing PhD. in law, from CMP Degree College, Allahabad University, Allahabad and both the petitioner has the Locus to file the present petition as the petitioners are aggrieved of Ordinance passed by the State Government and knocking at the door of this Hon'ble Court and are praying before this Hon'ble Court that the Law passed by the State of Uttar Pradesh and Uttarakhand, (Uk.) in against the Love

Jihad and punishments thereof may be declared Ultra Virus and null and Void, because it disturbs the basic Structure of the Constitution as laid down by the Law. The Ordinance passed by the State of Uttar Pradesh, U.P) and Uttarakhand, (Uk.) is against the Public Policy and society at large.

- 2.2 Brief Facts of the case that one Ordinance is passed by the State of Uttar Pradesh and Uttarakhand, (Uk.) by the name of Uttar Pradesh Prohibition of unlawful Conversion of Religion Ordinance, 2020 and The Uttarakhand Freedom of Religion Act, 2018, against the Love Jihad wherein a law has been passed by the Governments and strict Laws has been enacted. That the ordinance disturbs the basic structure of the Constitution of India, which was held by this Hon'ble time to time in catena of Judgement, in specially in the matter of "Golaknath v State of Punjab is one of the landmark cases in the Indian legal history. A number of questions were raised in this case. But the most important issue was whether the parliament has the power to amend the fundamental rights enshrined under Part III of the Constitution of India or not. The petitioners contended that the parliament has no power to amend the fundamental rights whereas the respondents contended that the constitution-makers never wanted our constitution as rigid and Non-flexible one. The court held that the parliament cannot amend the fundamental rights. This ruling overturned in Kesavananda Bharati vs Union of India 1973. In this, the court held that the parliament

can amend the constitution including fundamental rights but the parliament cannot change the basic structure of the constitution.

“The majority said that the parliament has no right to amend the fundamental rights. These are fundamental rights are kept beyond the reach of parliamentary legislation. Therefore, to save the democracy from an autocratic actions of the parliament the majority held that parliament cannot amend the fundamental rights enshrined under Part III of the Constitution of India The majority said that fundamental rights are the same as natural rights. These rights are important for the growth and development of a human being”.

- 2.3 It was held by this Hon’ble that Parliament cannot curtail any fundamental right of the people through enactment of any law, which violates the basic structure of the Indian Constitutions.

Hence, the present PIL Writ Petition is filed.

### 3. **GROUND:**

The Petitioner seeking relief on the following grounds: -

- 3.1. Because of the passing of the Ordinance the injustice has been done to the persons /citizens who had done nothing wrong but still have to face the consequences.

- 3.2. Because it is also pertinent to mention herein that the ordinance is passed by the State Government/s of Uttar Pradesh and Uttrakhand is against the provisions Special Marriage Act, 1954 and it will create fear in the society who is/ are not part of Love Jihad they can be falsely implicated in the ordinance
- 3.3. Because, this ordinance can become a potent tool in the hands of bad elements of the society to use this ordinance to falsely implicate anyone in this ordinance and there are probabilities of falsely implicate persons who are not involved in any such acts and it will be a grave injustice if this ordinance is passed.
- 3.4. Because, it will be a weapon in the hands of some people to whom they can falsely implicate in the false case.
- 3.5. Because, the center has the right to make laws for the states as per Article 254 of the Constitution of India, if there is inconsistency between laws made by Parliament and laws made by the Legislatures of State, in that case the Law enacted /passed by the Center will prevail. The State Governments have to rethink their decision to pass its decision of the above-mentioned ordinance.
- 3.6. Because, if this ordinance is implemented it will be against the Public Police and this ordinance will harm public at a large and will create a chaotic situation in the soceity.
- 3.7. Because, the ordinance is against the

4. **DECLARATION OF REPRESENTATION MADE & CONCERNED GOVERNMENT AUTHORITY APPROACHED IF ANY & ITS RESULT:**

The relief mainly sought in the present WP against the respondent Central and State Governments which is a clear violation of Fundamental Rights that is guaranteed by the Constitution under Article 19 & 21 and Article 32

5. **AFFIDAVIT OF NO PERSONAL GAIN OR MOTIVE:**

The Petitioners have filed an affidavit stating that there is no personal gain, private motive or oblique reason in filing the Public Interest Litigation with this petition. The Petitioner further states that the petitioner has spent his own money for this PIL Writ Petition.

6. **COURT MAY IMPOSE EXEMPLARY COSTS IF ANY:**

The issue involved in the present W.P. (Crl.) is a purely a legal issues and it is filed in the larger public interest and to protect their fundamental rights to liberty and equality. The Court may impose costs on the petitioner(s) if it finds that the petition was frivolous or instituted with oblique or mala fide motive or lacks bona fides.

7. **DECLARATION OF NO CASE FILED EARLIER:**



That the petitioners state that no other similar petition has been filed before this Hon'ble Court or before any other Court earlier either by the Petitioners or any other persons.

**8. PRAYER:**

In view of the facts and circumstances of the case, it is most respectfully prayed that this Hon'ble Court may be pleased to : -

- a) That this Hon'ble Court may be pleased to allow the present petition, Under Article 32 Of The Constitution Of India Read With Order XXXVIII, Rule 12 (1) (D) & 2 of The Supreme Court Rules, 2013 to issue an Writ of Mandamus directing/ declaring the provisions of the Ordinance/s "The Uttar Pradesh Prohibition Of Unlawful Conversion Of Religion Ordinance, 2020 And The Uttarakhand Freedom Of Religion Act, 2018 to be ultra-virus, and direct the Authorities not to give effect to the Ordinance passed by the concerned State Governments.
- b) This Hon'ble Court be pleased to issue a direction to the Respondents directing them to not to give effect to impugned provisions/ordinance and withdraw the same or in the alternative modify the said bill as the Court deems fit and /or

- c) Pass such other and further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

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

DRAWN BY

FILED BY

PRADEEP KUMAR YADAV    SANJEEV MALHOTRA

Place: New Delhi

Drawn on: 30.11.2020

Filed On: 30.11.2020