

**IN THE HIGH COURT OF KARNATAKA
AT BENGALURU**

(Original Jurisdiction)

W.P. No. /2021 (PIL)(GM-RES)

Between:

Dr. KB Vijayakumar

**Petitioner
(Party in Person)
(9986498853)**

And

1. **The State of Karnataka
By Its Chief Secretary**
Room No.320, 3rd Floor
Vidhana Soudha
Dr. Ambedkar Veedhi
Bangalore 560 001
Email: cs@karnataka.gov.in
Contact: 080-22252442

2. **Additional Chief Secretary**
No.2

Respondent

Department of Forests, Ecology

And Environmental Sciences

Room No.447, 4th Floor, Gate No.2
Vikas Soudha,
Dr. BR Ambedkar Veedhi
Bangalore 560 001
Email: prs-fee@karnataka.gov.in
Contact; 080-22256722

3. **Additional Chief Secretary** Respondent
No.3

Department of Labour
Room No.414, 4th Floor
Vikas Soudha, Gate No.2
Dr. Ambedkar Veedhi
Bangalore 560 001
Email: secy-labour@karnataka.go
Contact: 080-22254894

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Petitioner: Party-in-Person
Dr. KB Vijayakumar
B.Sc., B.Com., A.M.Ex.A.(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
(KAR/2016/2017)

4. **The Principal Secretary** Respondent No.
4

(Environment)
Room No.709, 7th Floor
Gate No.3, MS Building
Dr. BR Ambedkar Veedhi
Bangalore 560 001
Email: secyenv-fee@karnataka.gov.in
Contact: 080-22254377

5. **The Director** Respondent
No.5

Department of Mines & Geology
No.49, KhanijaBhavan
Race Course Road
Seshadripuram
Bangalore 560 001
Email: dirmines@gmail.com /
dir-mines@karnataka.gov.in
Contact: 080-22384134

6. **The Director General and** Respondent
No.6

Inspector General of Police
No.2, Nrupathunga Road
Bangalore 560 001
Email: police@ksp.gov.in
Contact: 080-22211803 / 22942999

7. **Chief Controller of Explosives** Respondent
No.7

A-Block, CGO Complex
5th Floor, Seminary Hills
Nagpur, 440006
Email: explosives@explosives.gov.in

Contact: 0712-22510248

8. **The Lok Ayuktha** Respondent
No.8

Office of the Lok Ayuktha
MS Building
Dr. BR Ambedkar Veedhi
Bangalore 560 001
Email: kla-reg@nic.in

9. **Superintendent of Police** Respondent
No.9

Office of the Superintendent of Police
Sagar Road,
Shimoga – Karnataka
Email: spshi@ksp.gov.in
Contact: 08182-2261400

10. **The Chief Executive Officer**
No.10

Zilla Panchayat
Kuvempu Road
Shimoga-577201
Contact: 9480877000/ 0816-2272898

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Dr. KB Vijayakumar
B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
(KAR/2016/2017)

11. **The Deputy Superintendent** Respondent
No.11

Of Police
Karnataka Lok Ayuktha Police Station
Bangalore Honnavar Road
Gandhi Bazaar, KR Puram
Shimoga- 577201
Contact: 08182-22955464

12. **The Senior Geologist** Respondent
No.12

Office of the Senior Geologist
AC Complex, 2nd Floor
Balraj Urs Road
Shimoga – 577201
Email: sgshivamogga@gmail.com
Contact: 08182-2221647

13. **Deputy Controller of Explosives** Respondent
No.13

Mangalore Sub Circle Office
2nd Floor, City Centre
Opp. Hotel Roopa
Balamatta Road
Mangalore 575001
Contact: 0824-2441588/2420167

14. **The Deputy Commissioner** Respondent
No.14

Sir MV Road
(Savalanga Road)
Shimoga-577 201
Contact: 08182-2271101

15. **Shri BY Raghavendra** Respondent
No.15

Member of Parliament-Shimoga
No.13/2, Mythri Nivasa
Malerakeri, Shikaripuram Dist.
Shimoga-577427
Email: raghuby@gmail.com /
mppa.smg@gmail.com /
by.raghavendra@sansad.nic.in
Contact: 9560203221 / 9731853100



16. **Shri KB Ashok Naik**
No.16

MLA-Shimoga Rural
No.49, Akshara
Lal Bahadur Sastri Nagar
Savalanga Road
Shimoga 577201
Email: shivamogarural.mla@karnataka.gov.in
Contact: 9448866134

17. **Shri KS Eshwarappa** Respondent
No.17

MLA-Shimoga
"Jayalakshmi Nilaya"
MalleswaraNagar
Gundappa Shed
Shimoga-577201
Email: Shimoga-mla@karnataka.gov.in
Contact: 988033004

18. **Shri Araga Jnanendra** Respondent
No.18

MLA-Thirthahalli
Guddekoppa Village & Post
Tirthahalli Taluk
Shimoga District.
Email: Tirthahalli.mla@karnataka.gov.in
Contact: 9448136252

19. **Shri BS Yediyurappa** Respondent
No.19

MLA-Shikaripura
No.13/2, Malerakeri
Shikaripura-577427
Email: shikaripura.mla@karnataka.gov.in
Contact: 9611477119

20. **Shri Kumar Bangarappa** Respondent
No.20

MLA-Sorab
Kubaturu Village
Sorab Taluk
Shimoga District
Email: sorab.mla@karnataka.gov.in
Contact: 9448071947

21. **Shri H Halappa Harthalu** Respondent
No.21

MLA-Sagar
No.263, 1st "L" Main Road
KHBCS Layout, Sharada Colony
Basaveshwara Nagar
Bangalore 560079
Email: sagar.mla@karnataka.gov.in

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22. **Shri BK Sangameshwara**
No.22

MLA -Bhadravathi
Parvathi Krupa
No.75, Channagiri Road
Eastern Houses (OSM Road)
Old Town, **Bhadravathi 577301**
Email: bhadravathi.mla@karnataka.gov.in
Contact: 9448120086

Petitioner: Party-in-Person
Dr. KB Vijayakumar
B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
(KAR/2016/2017)

23. **Shri BM Shivakumar Shetty** Respondent
No.23

MLA-Byndoor
Mood Munda
Bellala Village
Kundapur – Udupi District.
Email: byndoor.mla@karnatkaa.gov.in
Contact: 9448358489 / 9740108499

Memorandum of Writ Petition (PIL)
Under Article 226 and 227 of the
Constitution of India

The Cause

1. The administration of the State of Karnataka, like every other State, is multi-level, starting from Panchayat at the bottom of the administrative pyramid and culminating with the Chief Secretary. At the political level, it starts from the elected Panchayat members

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B.Sc., B.Com., A.M.Ex.A.,(London),
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ADVOCATE
(KAR/2016/2017)

upto the Chief Minister. The hierarchy is clearly demarcated by the Constitution and various other statutes. The administrative and political hierarchy is supposed to be ably supported by various departments. The Executive and Administrative machinery of the State is also assisted by the law enforcement

and the Judiciary when rights of the citizens are violated.

1.a. The very recent blasts with explosives being transported in Shimoga very clearly exposes the lacunae in the system of administration and law enforcement and compliance with law by the officials of the Government.

1.b. The very officials entrusted with the responsibility of protecting the rights of the

individual citizens, ensuring c
 various statutes have abandoned their
 responsibility absolutely, probably for
 extraneous considerations and selfish interests
 consequently to be construed as acts not in
 consonance and conformity with the duties
 and responsibilities entrusted to them.

1.c. The political spectrum in the governance of the State starts with elected representatives at the Panchayat level, to Municipal level, to Assembly Constituency level to Parliamentary Constituency level. Each of these elected representatives have their own geographical area of operation, duties and responsibilities. There cannot be any illegal activity without their knowledge, concurrence and tacit or direct support.

1.d. The citizens have been paying the price for the lack of diligence and righteousness of the officials of the government and the elected representatives. The time has arrived when they are called in to explain their behaviour, callousness, abdication of responsibility, non-accountability duly supported by the political class.

The Petitioner

The Petitioner most humbly submits that:

2. The Petitioner is a citizen of India.
3. The Petitioner was a Banker for 24 years and Professor for MBA, abroad and in India, for 7 years and a Corporate Trainer of international repute for 10 years and is a RTI Activist since his return to India in 2012 and an Advocate since 2017.

Petitioner: Party-in-Person
Page No. 20
c., B.Com., A.M.Ex.A., (London)
C.A.I.I.B., LL.B., M.B.A., Ph.D., (USA),
ADVOCATE
(KAR/2016/2017)

4. The Petitioner is 66 years of age and has submitted a true copy of the Identification Card issued by the Karnataka State Bar Council in proof of the age, address and ID. **(Annexure-E-Page No.71)**.
5. The Petitioner, by profession, is an Advocate practicing in the High Court, City Civil Court, ACMM Court and also the Family Courts.

Declaration by the Petitioner

The Petitioner most humbly submits that:

6. The Petition falls under the jurisdiction of this Hon'ble Court.

7. The Petitioner seeks the permission of this Hon'ble Court to file the Writ Petition as a Public Interest Litigation.

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Dr. KB Vijayakumar
B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
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8. The Petitioner seeks the permission of this Hon'ble Court to appear as Party-in-person.

9. The Petitioner does not have any personal interest whatsoever in the subject matter of the case.

10. There is no alternative remedy on this issue.

11. The Petitioner has not filed a similar Petition either in this Court or elsewhere either now or earlier.

Court Fees

12. That a Court Fee of Rs.100- has been paid.

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B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
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Description of Annexures

13. **Annexure – A : (Page No. 56-58)**

A Copy of the news report dated 21-1-2021 in The Times of India.

14. **Annexure-“B” : (Page Nos.59-62)**

A Copy of the news report dated 22-1-2021 in the New Indian Express

15. Annexure-“C”: (Page Nos.63-66)

A Copy of the news report dated 22-1-2021 in The Hindu.

16. Annexure-“D”: (Page Nos.67-70)

A copy of the news report dated 24-01-2021 in The Indian Express.

Petitioner: Party-in-Person

Dr. KB Vijayakumar

B.Sc., B.Com., A.M.Ex.A.(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),

ADVOCATE

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17. Annexure-“E”: (Page No.71)

A true copy of the ID issued by the Karnataka State Bar Council in proof of ID and Address of the Petitioner

18. Annexure-“F”: (Page No. 72-73)

A Certificate in the form of Affidavit under Section 65-B of the Evidence Act for usage of

scanned documents, downloads from Internet,
E-mails, etc.

The Issue

15. The State of Karnataka, on 22nd instant, woke up to a horrific dawn – coming to know of a devastating blast in Hunusodu / Abbalagere Village in Shimoga District on the early night

Petitioner: Party-in-Person
Dr. KB Vijayakumar
B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
(KAR/2016/2017)

of 21st instant, now known to have killed six poor labourers and one person missing with neither the body nor the person, the whereabouts of whom is yet to be ascertained. The incident is about a lorry laden with explosives, purportedly used in quarries, being transported from nobody knows where or the route that the lorry had taken to reach the

destination. Neither does the administration seem to know whether this was the first time such devious transportation of explosives had taken place or it is just another of the many successful endeavours earlier. Karnataka became aware of the callousness, dereliction of duty and how the entire administration exposed them to the probable risk of death, limbs and life, by allowing such things to

Petitioner: Party-in-Person

Dr. KB Vijayakumar

B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),

ADVOCATE
(KAR/2016/2017)

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happen. That illegal minin is the old normal is an universal secret. That undue influence by all types and class of politicians from every political party one can think of, conniving and obliging government officials from Police Department, Department of Mines and Geology, Department of Explosives, District Collectorate and the Panchayat offices have jointly and severally did not bat an eyelid

when illegal quarrying was taking place out in the open for all to see.

Quarrying obviously cannot happen without blasting with explosives. And that means that

explosives were used, were transported from sources that themselves could be illegal – albeit with appropriate patronage, well

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Dr. KB Vijayakumar
B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
(KAR/2016/2017)

greased government machinery, conveniently looking the other way and all the time increasing the loss of revenue for the government. All the public servants, including elected representatives are paid from the public exchequer – public money – and the job of the public servants is to ensure compliance with law. But we now understand that they not only did not ensure that but most likely they

themselves have performed illegally. This has to be stopped. The incident explicitly show cases the complicity of the entire government machinery and therefore it is absolutely improper for the State Government to conduct an investigation into this as one

cannot expect that the wrong doers will

expose themselves and get punished.

Hence, the matter should be handed over to the Central Bureau of Investigation forthwith before evidences are destroyed or created to assist the culprits get away free.

16. The Department of Mining and Geology(DMG) is entrusted with the responsibility of issuing licences to prospective entrepreneurs who would like to get into

mining. The DMG is expected to inspect, report, license, monitor, review and renew the process as royalty to be paid to the Government is involved.

17. Quarrying is a cluster activity in the sense that a huge mountain of granite or land with



granite base is licensed for quarrying activities. Therefore, it is not acceptable when the DMG officials say that they did not know that illegal quarrying was in process.

17. In a similar manner, the Panchayat Offices who are the lower level of the pyramid of official and governmental hierarchy cannot behave like Rip Van Winkles (obviously the sleep is deliberate) and wake up suddenly to a blast and

hurry up more to cover the tracks than to investigate.

18. Political class may have seized the opportunity to belittle the present government, but not less than two years ago there was another leadership in governance and so the story can



go in flashback for at least a few decades. The fact is that in the last seven decades, decadence of compliance with law was gradually and steadily encouraged by the very same political class in cohorts with the government machinery and the conniving and cunning illegal entrepreneurs.

18. The Government machinery must be very well aware of the availability of all types of

explosives in the geographically contiguous neighbouring States – both legal and illegal sources – and therefore if they want to really nail the illegal sources it should not take them much time.

Petitioner: Party-in-Person

Dr. KB Vijayakumar

B.Sc., B.Com., A.M.Ex.A., (London),
C.A.I.I.B., LL.B., M.B.A., Ph.D., (USA),

ADVOCATE

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19. The Secretariat of the Government will pass on the buck to the DMG and they in turn to the Police and in turn to the District Administration and in turn to the Panchayats. The government now proclaims that they will not spare anybody, however highly placed, and punitive action as per law will be initiated.

The citizens of this country and the State have heard this rhetoric several thousand times, every time a mishap or a scam or a fraud

comes to light. It is also an universal secret that nothing much had ever happened and not many officials have been forced to face the consequences of law thereafter. There are no guarantees that this will not happen again.

Petitioner: Party-in-Person

Dr. KB Vijayakumar

B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),

ADVOCATE
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19. The devastating blast shattered, not just the hopes of the citizens of Karnataka, but also the glass windows as far as 180 kms away and cracked buildings, brought down some roofs apart from killing 6 labourers and making untraceable one person, probably a labourer.

The power of the explosives indicates that it was not just meant for the quarrying. It was probably something of a higher magnitude.

20. The photographs of slain labourers are horrible, with punctured bodies, painful moments expressed on the faces and loss of limbs and life. However, they are not used at this moment.

Petitioner: Party-in-Person
Dr. KB Vijayakumar
B.Sc., B.Com., A.M.Ex.A.(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
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21. Some randomly selected photographs published by the various media are reproduced hereunder to give an inkling of the enormity of the dereliction and irresponsibility of the government machinery.



Petitioner: Party-in-Person
Dr. KB Vijayakumar

B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.L.B., LL.B., M.B.A., Ph.D.,(USA),

ADVOCATE

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Petitioner: Party-in-Person

Dr. KB Vijayakumar

B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),

ADVOCATE



22. The common people in and around Shimoga have suffered damage to their properties and injuries due to the negligence of various government departments and government servants of all levels of hierarchy.

Petitioner: Party-in-Person
Dr. KB Vijayakumar
B.A., B.Com., A.M., F.A. (London)
C.I., M.A., M.L.S., Ph.D., (U.S.A.)
ADVOCATE
(KAR/2016/2017)



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23. Several incidents like these have happened in frauds, scams, corruption etc., the past and almost all of them have been forgotten by the people and the government. The government servants rely solely on the forgetfulness of the people at large and when the heat dies the issues are covered up or no information will be forthcoming and the perpetrators will be happy go lucky every time.

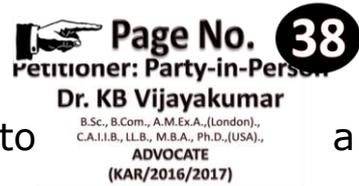
24. There is no history worthwhile in mentioning wherein government servants have been

punished. At the most they may be suspended and later silently brought in and even promoted. It is so because the politicians are the ones who are directly responsible and the government servants only facilitate the matters. Therefore, it becomes the responsibility of the politicians to save them from being punished lest the whole truth comes out in the open.

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- Petitioner: Party-in-Person**
Dr. KB Vijayakumar st.
B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
(KAR/2016/2017)
25. This blast is not the first and Similar irregularities will keep happening much to the detriment of social justice, responsibility and accountability in government service.
26. The massive amount of explosives that created the blast in Shimoga and the callousness of the government machinery is not identifying it earlier due to probably extraneous considerations is an imminent,

sure and lingering threat to the security of the State and that of the people, their limbs, their properties and life thus violating Article 21 of



the Constitution – Right to a collective failure of the government machinery that facilitates this violation of Right to Life.

27. The Administration, now claiming that nobody howsoever high, will be spared is a rhetoric the Indian citizens have been hearing for the last 75 years since Independence. Nothing worthwhile has every happened. The political will is not to punish but to save themselves and push the things under the carpet after a few days or weeks or months.

28. In the circumstances, it is the onerous responsibility of the Honourable High Court

to ensure that the guarantees provided by the Constitution of India is not denied to the common citizens.

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- Petitioner: Party-in-Person**
Dr. KB Vijayakumar ut
B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
(KAR/2016/2017)
29. Common citizens across a ra
150+ kms around Shimoga appear to have suffered damages to their property(ies). It is the responsibility of this Honourable Court to ensure that adequate compensation is given to such citizens to make good the expenses in refurbishing the property.
30. Properties does not only mean immovable property in the from of land and buildings but also the movable within the house, vehicles in and out of the house, injuries caused due to the damages to the property and so forth.

31. Six lives have been lost and it is claimed that they are poor labourers from Bihar and so forth. Their identities need to be establish,

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their kith and kin identified compensation for loss of life be family.

Petitioner: Party-in-Person
Dr. KB Vijayakumar
B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
(KAR/2016/2017)

32. The identification of the damages to properties of common citizens have to be done through a systematic manner by a team of experts in analysing building damage, other movable damages, medical experts to estimate the time and money needed to bring back the injured citizens to normaly and so forth.

33. The Government should put a team in place, a format in place, a process in place, decision on the compensation package in a transparent manner and give this procedure a wide

publicity so that common citizens will be well aware of the procedures and to claim compensation.

34. The compensation amount and the expenditure incurred in the investigation should be recovered from the operators of illegal quarrying, government servants right from Panchayat to the level of Principal Secretaries to the Departments.

35. The government servants who are responsible for the blast to occur cannot, by any stretch of imagination, themselves conduct enquiries. The entire government machinery has been negligent, irresponsible, callous. Not accountable and there is no fear of law since

political class is the decision taker and they are only facilitators. Therefore the State Government initiating a probe and the very same Government servants conducting the enquiry is a farce and an insult to the people who have suffered. There is an essential need for the Court to order the Central Bureau of Investigation to take up this case and investigate it threadbare duly monitored by the High Court of Karnataka, if only to give confidence to the people of this State and to show the political and government class that the High Court, as a protector of the rights of the common man guaranteed by the Constitution, will not abdicate its responsibility.

36. The loss of life and limbs and damage to properties have been the consequence of negligence of government servants and therefore cases should be filed against those public servants who shall be identified in some way or the other as having contributed to this mess under IPC Section 304 – Culpable homicide not amounting to murder.

37. The loss of damage to property should also be fixed on the government servants so identified and cases should be filed against them under Section 425 in The Indian Penal Code.

38. Six labourers have died and therefore cases should be filed under Workmen's

Compensation Act against the owners of the quarries involved.

Grounds

39. Negligence is written large on the face of this disaster coupled with irresponsibility of lack of fear of the law.
40. Government servants, right from Panchayat level to the Principal Secretaries of the Government and the Political class have let down the people of this State and endangered their properties, life and limbs.
41. Merely announcing a compensation of deaths that have occurred is no solace, no solution but only encourages the government

machinery not to bother about such happenings.

Petitioner: Party-in-Person

Dr. KB Vijayakumar

B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),

ADVOCATE
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42. Inflictions like this on the common citizens in different forms have seen that no government servant or police or political class have been punished in the last seven decades after Independence, the law of averages, which the government servants have immense faith in.
43. The time has arrived for this Honourable High Court to show the perpetrators of this crime and their tacit and not so tacit behind the screen protectors that it will stand by the common people of the State and the guarantees to them by the provisions of the Constitution.

44. The people involved are government servants at all levels and the political levels and on the face of it, and the fact that no government

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Petitioner: Party-in-Interest
Dr. KB Vijayakumar
B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
(KAR/2016/2017)

servant has been punished approximately, in the last 70+ years should indicate to this Honourable High Court that no justice shall prevail unless the case and the investigation is handed over to the Central Bureau of Investigation and the duly monitored by the Honourable High Court to provide a measure of confidence to the common people and also a measure of fear to the perpetrators and their supporters.

45. Any compensation that may have to be paid or decided to be paid by the Government shall be recovered from those public servants identified

as responsible for the disaster by inaction and / or dereliction of duty.

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Dr. KB Vijayakumar

B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),

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INTERIM PRAYERS

46. The Petitioner humbly prays that in view of the seriousness of the issue of the blast of explosive in Shimoga and the possible involvement or dereliction of duty or negligence or irresponsibility or tacit or not so tacit support by the Government machinery and government servants at all levels of hierarchy, at the various stages of the activity and the involvement of the Political class in the State this Honourable Court, the protector of the rights guaranteed to the citizens by the Constitution of India in regard

to Article 21 – Right to Life, may be pleased to:-

- a) Direct the Central Bureau of Investigation (CBI) to take up the case and investigate the incident and this Honourable Court

monitor the progress of the CBI in view of the importance of the case to the security of the State and its citizens.

- b) Any other order(s) that this Hon'ble Court may deem fit in the circumstances in the interest of justice and equity.

Prayer

WHEREFORE, the Petitioner, Party-in-person, most humbly and respectfully, prays that this Honourable

Court may be pleased to issue a Writ of Mandamus
or order or direction to:-

Petitioner: Party-in-Person
Dr. KB Vijayakumar
B.Sc., B.Com., A.M.Ex.A.(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.(USA),
ADVOCATE
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- A) Respondent No.1 to identify the functionaries and the Departments whose responsibility it is to approve, sanction, monitor, review such vocation as quarries and the movement of explosives, the type of explosives, the sourcing, the transportation, the storing etc. and the safety of the labour employed and place them on immediate suspension within the next 15 days;
- B) Respondent No.1 to direct filing of cases under IPC 304 and IPC 425 against such identified government servants whose negligence resulted in this disaster and damages;

- C) Respondent No.1 to formulate a scheme for ascertaining the extent of damage and

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awarding compensation to those who lost their lives, limbs and suffered injuries to self, damages to properties including immovables, movable and household items within a matter of 30 days;

- D) Respondent No.1 to give wide publicity immediately that such a scheme as in (B) above is being formulated and advise the common citizens to prepare and provide sufficient documentary evidence in regard to their claims for compensation;

E) Respondent No.1 to advice and direct all the Departments involved in such activities and monitoring to use Drones to keep an eye on the operations and on suspicion to immediate initiate appropriate action to safeguard the public and the State;

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Dr. KB Vijayakumar

B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
(KAR/2016/2017)

F) Respondent No.1 to direct departments to publish on their web-sites the details of those who have been given permission for such activities and the extent, location, types of explosives permitted, the quantity of the same for the information of the public.

G) Respondent No.1 to direct all Zilla Executive Officers to keep a tab on such activities and conduct periodical inspection with records;

H) Respondent No.1 to direct all District Commissioner to ensure the Zilla Executive Officers do perform and seek periodical reports of their visits;

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Dr. KB Vijayakumar
B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
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J) Any other order(s) that the Court may deem fit in the circumstances in the interest of justice and equity.

Place: Bengaluru
Date: 27-01-2021

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B.Sc., B.Com., A.M.Ex.A.,(London),
C.A.I.I.B., LL.B., M.B.A., Ph.D.,(USA),
ADVOCATE
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