

**IN THE SUPREME COURT OF INDIA**  
[ORDER XXI RULE 3(1)(a)]  
CIVIL APPELLATE JURISDICTION  
(Under Article 136 of the Constitution of India)  
**SPECIAL LEAVE PETITION (CIVIL) NO. \_\_\_\_\_/2021**

(Arising out of impugned final judgement and order dated 22.04.2021 passed by the High Court for the State of Telangana at Hyderabad in WP(PIL) No. 134 of 2020)

**WITH PRAYER FOR INTERIM RELIEF**

**IN THE MATTER OF:**

Khaja Aijazuddin

...Petitioner

Versus

The Cabinet Secretary, Govt. of  
India and Ors.

...Respondents

WITH

**I.A. No. \_\_\_\_\_ of 2021**

APPLICATION FOR PERMISSION TO APPEAR AND ARGUE AS  
PETITIONER-IN-PERSON

AND

**I.A. No. \_\_\_\_\_ of 2021**

AN APPLICATION FOR EXEMPTION FROM FILING CERTIFIED  
COPY OF IMPUGNED

AND

**I.A. No. \_\_\_\_\_ of 2021**

AN APPLICATION FOR EXEMPTION FROM FILING  
NOTARISED AFFIDAVIT

**PAPER BOOK**

FOR INDEX KINDLY SEE INSIDE

**PETITIONER IN PERSON: KHAJA AIJAZUDDIN**

**SYNOPSIS**

The present Special Leave Petition is being preferred against the impugned final judgement and order dated 22.04.2021 passed by the High Court for the State of Telangana at Hyderabad in WP(PIL) No. 134 of 2020 whereby the High Court directed the Petitioner to approach this Hon'ble Court for "partial relief", sought before the Hon'ble High Court with regard to orders seeking issuance of directions to the Respondent Nos .1 and 2/Central Government to restrain all online social media networks operating in India and not to carry out any Islamophobic posts or messages hurting or insulting the feelings of a particular community. Moreover, with respect to the prayer for issuing directions to the respondent No.1/Government of India, to register criminal complaint against the respondent No.5/Twitter and its users, who are spreading hatred messages, the High Court merely directed the Respondent No. 2 to consider the said Petition filed by the Petitioner.

However, no clear direction regarding same was given by the High Court.

**Facts in brief**

A Religious Congregation was conducted from 13<sup>th</sup> March 2020 to 15<sup>th</sup> March 2020 at Delhi organized by Tablighi Jamat at Nizamuddin, Delhi where Scholars or attendees have come from across the World and from different States of India and the Organizers have housed them by providing necessary day to day facilities. After the conclusion of the meeting somewhere after 20.03.2020 there was massive spread of Coronavirus resulting the Government of India declaring 22.03.2020 as "Janata Curfew", all over the Country which means entire Country on that particular date shall be closed fully and thereafter lockdown was announced by the Government of India on 24.03.2020 till 14.04.2020 and thereafter extended till 17.05.2020. After the attendees were dispersed to their respective States and during or after arriving their respective places, there were some cases of

detection of Coronavirus symptoms in the attendees who came from abroad and are staying at Nizamuddin, Delhi where congregation took place, and therefore the "State" took them for Quarantine as per the norms. Due to massive publicity given by the media that many of the positive cases of symptoms of coronavirus were found from Tablighi Jamaat at Nizamuddin, Delhi, there was a massive trending of Tweets on the Twitter attaching the Muslim religion to the cause of spread of coronavirus.

The Petitioner made various Representations to the Respondents, and upon the failure of the Respondents to act upon the same, the Petitioner preferred Writ Petition being Diary No. 10965/2020 before this Hon'ble Court, whereby this Court directed the Petitioner to approach the High Court of Telangana under Article 226. Therefore, the Petitioner filed WP(PIL) No. 134 of 2020 before the Telangana High Court, whereby the Division Bench of High Court directed the Petitioner to approach this Hon'ble Court for the relief no. 2 as was prayed

before the High Court, for issuing directions to the respondent Nos .1 and 2/Central Government to restrain all online social media networks operating in India and not to carry out any Islamophobic posts or messages hurting or insulting the feelings of a particular community.

The High Court also directed the Respondent No. 2 to consider the averments made by the Petitioner and to take appropriate steps. However, despite the directions of the High Court, the Respondents took no action against the offenders till date.

**LIST OF DATES**

<b>DATES</b>	<b>EVENTS</b>
March, 2020	A Religious Congregation was conducted from 13 <sup>th</sup> March 2020 to 15 <sup>th</sup> March 2020 at Delhi organized by Tablighi Jamat at Nizamuddin, Delhi where Scholars or attendees came from across the World and

	<p>from different States of India and the Organizers housed them by providing necessary day to day facilities.</p> <p>It is submitted that after the conclusion of the meeting somewhere after 20.03.2020 there was massive spread of Coronavirus resulting the Government of India declaring 22.03.2020 as "Janata Curfew", all over the Country which means entire Country on that particular date shall be closed fully and thereafter lockdown was announced by the Government of India on 24.03.2020 till 14.04.2020.</p>
02.04.2020	<p>The attendees, after getting dispersed to their respective States and during or after arriving their respective places there was some cases of detection of Coronavirus symptoms i.e. Positive and the attendees who have come from abroad and are staying at Nizamuddin,</p>

	<p>Delhi where congregation took place were tested positive and the "State" took them for Quarantine as per the norms and due to massive publicity given by the media that many of the positive cases of symptoms of Coronavirus were found from Tablighi Jamaat at Nizamuddin, Delhi' There was massive trending on the Twitter attached to the religion of the disease coronavirus and in those circumstances, the Petitioner issued Representation/Petition Dated 02.04.2020 through email to the Cabinet Secretary, Govt. of India, Union home Secretary, Govt. of India, The Director General of Police, Telangana State, Hyderabad City, The Commissioner of Police, Hyderabad City, and another and the sum and substance of the said representation dated 02.04.2020 was that in</p>
--	--

	<p>view of the particular community is attached to the Coronavirus which is totally contrary to the Guidelines issued by the WHO, Dated 18.03.2020 i.e, Para Nos. 1 &amp; 2 therein in the Guidelines mandated that religion shall not be attached with the pandemic i.e. Coronavirus and due to trending on Twitter to take action against the Twitter by blocking the unwarranted tweets or usages which is affecting the particular community and to uphold the "Rule of Law" necessary action may be taken.</p> <p>A true copy of Representations sent to Respondent Nos. 1 to 4 is attached herewith and marked as <b><u>ANNEXURE P-1 [pg.18-19]</u></b>.</p>
04.04.2020	On 04.04.2020, the Respondent no. 5 was served notice thru email to immediately act upon about the trending illegally on twitter



	<p>and the representation dt. 02.0.2020 sent to respondent nos. 1 to 4 was also stated in the said notice.</p> <p>True copy of Representation sent to Respondent No. 5 is attached herewith and marked as <b><u>ANNEXURE P-2</u></b> [pg. 20].</p>
21.04.2020	<p>Petitioner, being aggrieved with trending on Twitter under the name and styled #Islamiccoronavirusjihad, #Nizamuddinidiots, #Coronajihad, #Tablighijamat, #TablighiJamatVirus, and in many ways attaching the religion to pandemic disease which was being done by Social Network Users on Twitter, filed a Writ Petition being Diary No. 10965/2020.</p> <p>True copy of Writ Petition Diary No. 10965/2020 is attached herewith and marked as <b><u>ANNEXURE P-3</u></b> [pg. 21-43].</p>

30.04.2020	<p>The Coram, headed by Hon'ble Chief Justice of India, after hearing the case on merits, directed the petitioner to approach the Telangana High Court since it enjoys wider powers under Article 226 of the Constitution.</p> <p>True copy of order dated 30.04.2020 passed by this Hon'ble Court is attached herewith and marked as <b><u>ANNEXURE P-4</u></b> [pg. 44].</p>
19.06.2020	<p>The petitioner on the directions of this Hon'ble Court, approached the Telangana High Court through WP(PIL) 134 of 2020.</p> <p>True copy of Petition before High Court of Telangana is attached herewith and marked as <b><u>ANNEXURE P-5</u></b> [pg. 45-65].</p>
19.07.2020	<p>The Respondent Nos. 3 and 4 filed their Counter Affidavit to the WP(PIL) 134 of 2020 filed by the Petitioner.</p> <p>True copy of Counter filed by the Respondent</p>

	<p>Nos. 3 and 4 in WP(PIL) 134 of 2020 is attached herewith and marked as <b><u>ANNEXURE P-6</u></b> [pg. 66-128].</p>
16.08.2020	<p>The Petitioner filed his reply to the Counter Affidavit filed by the Respondent Nos. 3 and 4.</p> <p>True copy of Reply filed by Petitioner to the Counter Affidavit filed by the Respondent Nos. 3 and 4 to the WP(PIL) 134 of 2020 is attached herewith and marked as <b><u>ANNEXURE P-7</u></b> [129-205].</p>
30.09.2020	<p>The Respondent No. 5 filed their Counter Affidavit along with authorities, to the WP(PIL) 134 of 2020 filed by the Petitioner.</p> <p>True copy of Counter filed along with Authorities by the Respondent No. 5 in WP(PIL) 134 of 2020 is attached herewith and marked as <b><u>ANNEXURE P-8</u></b> [pg. 206-271].</p>

25.01.2021	<p>The Respondent Nos. 1 and 2 filed their Counter Affidavit to the WP(PIL) 134 of 2020 filed by the Petitioner.</p> <p>True copy of Counter filed by the Respondent Nos. 1 and 2 in WP(PIL) 134 of 2020 is attached herewith and marked as <b><u>ANNEXURE P-9</u></b> [pg. 272-285].</p>
22.04.2021	<p>High Court disposed the WP(PIL) 134 of 2020 filed by the Petitioner. <b>(IMPUGNED ORDER)</b></p>
5 <sup>th</sup> May 2021	<p>Hence the present SLP is being preferred by the Petition-in-person.</p>

**IN THE SUPREME COURT OF INDIA**  
**[ORDER XXI RULE 3(1)(a)]**  
**CIVIL APPELLATE JURISDICTION**  
 (Under Article 136 of the Constitution of India)  
**SPECIAL LEAVE PETITION (CIVIL) NO. \_\_\_\_\_/2021**

**IN THE MATTER OF:****Position of Parties**

	<b>Before the Hon'ble High Court</b>	<b>In the Hon'ble Supreme Court</b>
<b>Khaja Aijazuddin,</b>	Applicant/ Petitioner	Petitioner

**VERSUS**

- |  |                     |                     |
|--|---------------------|---------------------|
| 1. <b>The Cabinet Secretary,</b><br>Govt. of India, Room No. 18,<br>Cabinet Secretariat, Rashtrapati<br>Bhawan, New Delhi- 110004. | Respondent<br>No.1  | Respondent<br>No. 1 |
| 2. <b>The Home Secretary,</b><br>Ministry of Home Affairs, Govt. of<br>India, North Block, New Delhi-<br>110001.                   | Respondent<br>No. 2 | Respondent<br>No. 2 |
| 3. <b>The Director General of Police,</b><br>Telangana State, Lakdikapul,<br>Hyderabad-500004.<br>Telangana State.                 | Respondent<br>No. 3 | Respondent<br>No. 3 |

- |   |                     |                     |
|---|---------------------|---------------------|
| 4. <b>The Commissioner of Police,</b><br>Hyderabad<br>Commissionerate, Basheerbagh,<br>Hyderabad-500001.  | Respondent<br>No. 4 | Respondent<br>No. 4 |
| 5. <b>Twitter Inc.,</b><br>Represented by Chief Executive<br>Officer, Mr. Jack Dorsey, 1335<br>Market Street, Suite 900, San<br>Francisco, CA 94103, United States<br>of America. | Respondent<br>No. 5 | Respondent<br>No. 5 |

All are contesting Respondents.

To,  
The Hon'ble Chief Justice of India,  
And His Companion Justices of the  
Hon'ble Supreme Court of India.

The Humble petition of the  
Petitioner above-named.

**MOST RESPECTFULLY SHOWETH AS UNDER:**

1. That the present Special Leave Petition is being preferred against the impugned final judgement and order dated 22.04.2021 passed by the High Court for the State of Telangana at Hyderabad in WP(PIL) No. 134 of 2020 whereby the High Court directed the Petitioner to approach this Hon'ble Court for partial relief sought before the Hon'ble High Court with regard to orders

seeking issuance of directions to the Respondents No.1 and 2/Central Government to restrain all online social media networks operating in India and not to carry out any Islamophobic posts or messages hurting or insulting the feelings of a particular community. Moreover, with respect to the prayer for issuing directions to the respondent No.1/Government of India, to register criminal complaint against the respondent No.5/Twitter and its users, who are spreading hatred messages, the High Court merely directed the Respondent No. 2 to consider the said Petition filed by the Petitioner. However, no clear direction regarding same was given by the High Court.

2. **QUESTIONS OF LAW**

The instant Special Leave Petition raises the following questions of law of general importance to be determined by this Hon'ble Court:

A. Whether the High Court overlook the fact that the Petitioner approached the High Court upon the

directions of this Hon'ble Court vide order dated 30.04.2020 in Writ Petition Diary No. 10965 of 2020 and hence the High Court ought to have taken steps in terms of second and third prayer before the High Court?

- B. Whether the Hon'ble High Court was justified in not directing the Respondent No. 1 and 2 to register criminal complaint against the Respondent no. 5 as well as its users who became an integral accessory in promoting hatred against a particular religion which is a criminal offence under Chapter XV of the Indian Penal Code and Information Technology Act, 2000?
- C. Whether the Respondent No. 5/Twitter, even though a private body, amenable to writ jurisdiction of the Hon'ble High Court under Article 226 of the Constitution of India, on the basis of observations of this Hon'ble Court in *Binny Ltd. v. V. Sadasivan*, (2005) 6 SCC 657 and *Pradeep Kumar Biswas v. Indian Institute of Chemical Biology*, (2002) 5 SCC 111?



3. **DECLARATION IN TERMS OF RULE 3(2):**

The Petitioner states that no other petition for Special Leave to Appeal has been filed against the impugned final judgment and order dated 22.04.2021 passed by the High Court for the State of Telangana at Hyderabad in WP(PIL) No. 134 of 2020.

4. **DECLARATION IN TERMS OF RULE 5:**

The Annexures P-1 to P-9 produced along with the SLP are true copies of the Pleadings/documents which formed part of records of the case in the High Court of Telangana against whose order the leave of appeal is sought for in this petition.

5. **FOUNDATIONS:**

A. Because the High Court overlooked the fact that the Petitioner approached the High Court upon the directions of this Hon'ble Court vide order dated 30.04.2020 in Writ Petition Diary No. 10965 of 2020

and hence the High Court ought to have taken steps in terms of second and third prayer before the High Court.

B. Because the Respondent Nos. 3 and 4 issued notices to Respondent No. 5 under Section 91 CrPC even without registering an FIR in the said matter. It is submitted that no police investigation can take place without filing of an FIR as has been laid down by this Hon'ble Court in the case of *Lalita Kumari vs. Govt. of U.P. & Ors. (2014) 2 SCC 1.*

C. Because sub-Rule (7) to Rule 3 of Information Technology (Intermediary Guidelines) Rules, 2011 obliges the intermediaries such as the Respondent No. 5, to provide information sought to by the Government Agencies who are lawfully authorized for investigation in a particular cyber security activity.

The said sub rule (7) reads as under:

*“(7) When required by lawful order, the intermediary shall provide information or any*

*such assistance to Government Agencies who are lawfully authorised for investigative, protective, cyber security activity. The information or any such assistance shall be provided for the purpose of verification of identity, or for prevention, detection, investigation, prosecution, cyber security incidents and punishment of offences under any law for the time being in force, on a request in writing stating clearly the purpose of seeking such information or any such assistance."*

It is however, submitted that the Respondent No. 5, being an intermediary which has also been admitted to the position by Respondent No. 5, has failed to furnish the details of the linked IP addresses, alternate email IDs, and phone numbers, of the users associated with the posting of the inflammatory posts and Hashtags against a particular religious community on the website of the Respondent No. 5.

- D. Because the High Court was unjustified in not directing the Respondent Nos. 1 and 2 to register criminal complaint against the Respondent no. 5 as well as its users who became an integral accessory in promoting hatred against a particular religion which is a criminal offence under Chapter XV of the Indian Penal Code and Information Technology Act, 2000.
- E. Because the Respondent Nos. 1 and 2 failed to act as per the directions of the Hon'ble High Court as to the third prayer made by the Petitioner before the High Court. It is submitted that no steps have been taken by the Respondent Nos. 1 and 2 to register criminal complaint against the Respondent No. 5/Twitter as well as its users, who spread hatred messages during the pandemic.
- F. Because the Hon'ble High Court expressing its inability to grant the relief, gave the liberty to the Petitioner to approach this Hon'ble Court for grant of

relief in the second prayer, as was prayed by the Petitioner before the High Court, which reads as:

*“issue further directions to the respondent nos. 1 & 2 that all online social media networks or sites operated in territorial jurisdiction of India and restrain all online social media networks operating in India not to carry any Islamophobic Posts or messages hurting or insulting the feelings of the particularly community,”*

G. Because the Respondent No. 5 is performing a public duty in so far as that Twitter is performing function of mode of communication and delivery of information in public at large, all over the world. Therefore, even though Respondent No. 5 is a private body, and its functioning is under a statute i.e. IT Act 2000 and Rules framed thereunder, it is amenable to writ jurisdiction of the Hon’ble High Court under Article 226 of the Constitution of India, as had been held by

this Hon'ble Court in *Binny Ltd. v. V. Sadasivan*, (2005) 6 SCC 657.

Also, this Hon'ble Court in *Pradeep Kumar Biswas v. Indian Institute of Chemical Biology*, (2002) 5 SCC 111

observed the requisites to be a State under Article 12,

*“98. .... To be an authority, the entity should have been created by a statute or under a statute and functioning with liability and obligations to the public. Further, the statute creating the entity should have vested that entity with power to make law or issue binding directions amounting to law within the meaning of Article 13(2) governing its relationship with other people or the affairs of other people – their rights, duties, liabilities or other legal relations. If created under a statute, then there must exist some other statute conferring on the entity such powers.”*

H. Because there is no other efficacious remedy available to the Petitioner other than to approach this Hon'ble Court for grant of relief.

I. Because there is an absence of the Guidelines as envisaged under the provisions of IT Act, 2000,

pertaining to hate messages against any Religious Community including Islamophobic posts on various Social Media platforms, including, but not restricted to Twitter, Facebook, Instagram, amongst others and all the online Social media networks of sites operating in Territorial Jurisdiction of India for which Respondent Nos. 1, 2 & 6 have got authority and control under law to act upon, to see that rule of law is followed in toto.

6. **GROUND FOR INTERIM RELIEF**

- a. Because the Petitioner has a prima facie good case and there is every likelihood of success. The balance of convenience is also in favor of the Petitioner.
- b. Because if the interim relief as prayed for is not granted, the Petition will become infructuous.

7. **MAIN PRAYER**

It is therefore, respectfully prayed that this Hon'ble Court may be pleased to:

- a) Grant special Leave to Appeal against the impugned final judgment and order dated 22.04.2021 passed by the High Court for the State of Telangana at Hyderabad in WP(PIL) No. 134 of 2020; and/or
- b) Pass such further order(s) or direction(s) as tis Hon'ble Court may deem fir and proper in the facts and circumstances of the present case.

8. **PRAYER FOR INTERIM RELIEF**

It is therefore, respectfully prayed that till the pendency of the present SLP, this Hon'ble Court may be pleased to:

- a. Direct the appropriate agency, i.e. CBI or NIA, to conduct investigation against Respondent No. 5 and its users who were involved in inflammatory posts;
- b. Direct the Respondent Nos. 1 and 2 to frame guidelines as envisaged under the provisions of IT Act, 2000, pertaining to hate messages against any Religious Community including Islamophobic posts on various Social Media platforms; and/or



- c. Pass such other orders/directions as this Hon'ble court may deem fit and proper in the facts and circumstances of the case.

DRAWN & FILED BY

**[KHAJA AIJAZUDDIN]**

New Delhi  
Date: 05.05.2021