

IN THE HIGH COURT OF DELHI AT NEW DELHI  
EXTRAORDINARY ORIGINAL CIVIL JURISDICTION  
WP (C) NO.10530 OF 2020

IN THE MATTER OF:

Raghav Chadha

...Petitioner

Versus

Commissioner of Police & Ors.

...Respondents

**COUNTER AFFIDAVIT ON BEHALF OF THE RESPONDENTS 1-3**

I, **EISH SINGHAL** S/o Sh. **SURESH SINGHAL**, Age **36**,  
currently posted as Deputy Commissioner of Police, New Delhi District  
do hereby solemnly state and affirm as under:

1. I am aware of the contents of the writ petition and am authorised to file the present counter affidavit on behalf of all Respondents. It is submitted that by way of the present writ petition, the Petitioner has impugned the rejection of his request dated 12.12.2020 to Respondent No.3 herein (**Annexure P-2**), alongwith three other persons, for permission to hold a peaceful protest/ dharna outside the residence of the Hon'ble Home Minister vide the impugned order dated 12.12.2020 (**Annexure P-1**).
2. This Hon'ble Court was pleased to issue notice in the present writ petition vide order dated 18.12.2020 after hearing both sides and directed the Respondents to file a counter affidavit. The present counter affidavit is being filed in compliance with order dated 18.12.2020 of this Hon'ble Court.



3. It is submitted that the impugned order has been issued in accordance with the extant legal regime and is therefore justified and sustainable. In this regard, at the outset, it is pertinent to note that the Hon'ble Supreme Court in *Mazdoor Kisan Shakti Sangathan v. Union of India*, (2018) 17 SCC 324 while upholding the right of citizens to hold peaceful protests and demonstrations under Articles 19(1)(a) and 19(1)(b) of the Constitution, had directed the Commissioner of Police (Respondent No.1 herein) to frame appropriate guidelines for regulation of protests and demonstrations. It is pertinent to note that the Hon'ble Court has unequivocally held that no protest and demonstration can be held outside the residence of any dignitary. The relevant paragraph from the judgment is being reproduced herein under:

70. In the aforesaid conspectus, here also the Commissioner of Police, New Delhi and other official respondents can frame proper guidelines for regulating such protests, demonstrations, etc. As noted above, the orders issued under Section 144 prohibit certain activities in the nature of demonstrations, etc. "without permission", meaning thereby permission can be granted in certain cases. There can, therefore, be proper guidelines laying down the parameters under which permission can be granted in the Boat Club area. It can be a very restrictive and limited use, because of the sensitivities pointed out by the respondents and also keeping in mind that Ramlila Maidan is available and Jantar Mantar Road in a regulated manner shall be available as well, in a couple of months. Thus, the proposed guidelines may include the provisions for regulating the numbers of persons intending to participate in such demonstrations, prescribing the minimum distance from the Parliament House, North and South Blocks, Supreme Court, residences



of dignitaries, etc. within which no such demonstrations would be allowed; imposing restrictions on certain routes where normally the Prime Minister, Central Ministers, Judges, etc. pass through; not permitting any demonstrations when foreign dignitaries are visiting a particular place or pass through the particular route; not allowing firearms, lathis, spears, swords, etc. to be carried by demonstrators; not allowing them to bring animals or pitch tents or stay overnight; prescribing time-limits for such demonstrations; and placing restrictions on such demonstrations, etc. during peak traffic hours. To begin with, authorities can permit those processions and demonstrations which are innocuous by their very nature. Illustratively, school children carrying out procession to advance some social cause or candle march by peace-loving group of persons against a social evil or tragic incident. These are some of the examples given by us to signify that such demonstrations can be effectively regulated by adopting various measures instead of banning them altogether by rejecting every request for such demonstrations. We, therefore, feel that in respect of this area as well the authorities can formulate proper and requisite guidelines. We direct the Commissioner of Police, New Delhi, to undertake this exercise, in consultation with other authorities, within two months from today.(emphasis supplied)

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4. It is submitted that in accordance with the aforesaid directions, Respondent No.1 has formulated guidelines for organising protests and demonstrations at or around Parliament House, North and South Blocks, Supreme Court, residences of dignitaries, etc. (which includes the residence of the Hon'ble Home Minister), Jantar Mantar and Boat Club vide order dated 22.11.2018 known as Standing Order No.10 /2018, "Guidelines for Organising Protests or Demonstrations at or near Central Vista, including Jantar Mantar and Boat Club". As



mandated by the Hon'ble Supreme Court, Respondent No.1 has regulated the conduct of protests and demonstrations in this area by designating a space in Jantar Mantar for protests upto a limit of upto 1000 persons as the identified spot for such activity and above this limit at Ramlila Maidan. The Standing Order also lays down the procedure for obtaining permission to carry on such protests in accordance with the judgment of the Hon'ble Supreme Court. A true copy of Standing Order No.10/2018 dated 22.11.2018 is annexed herewith as **Annexure R-1**.

5. The Respondents, therefore, submit that no protest outside the residence of the Hon'ble Home Minister can be permitted in terms of the law laid down by the Hon'ble Supreme Court in *Mazdoor Kisan Shakti Sangathan (supra)* and Standing Order No.10/2018 issued by Respondent No.1 in compliance thereof.

*JK* 6. It is further submitted that the request of the Petitioner was also denied on the following grounds:

a. The Delhi Disaster Management Authority ('DDMA') vide order dated 30.09.2020 had issued further directions to prevent the spread of Covid-19 pandemic in the National Capital Territory of Delhi. The said guidelines prohibited all political functions in Delhi till further orders. It is submitted that this restriction on political functions has been continued vide orders dated 31.10.2020 and 28.11.2020 of the DDMA which have directed



that status quo be maintained with respect to political functions till 31.12.2020. It is further submitted that the Respondents apprehended that there was a reasonable possibility of the dharna by the Petitioner gathering more supporters which would violate the DDMA guidelines dated 30.09.2020, 31.10.2020 and 28.11.2020 for prevention of the spread of the Covid-19 pandemic. Therefore, the request of the Petitioner to hold a dharna outside the Hon'ble Home Minister's residence was denied in accordance with the extant guidelines of the DDMA to contain the Covid-19 pandemic. A true copy of the DDMA orders dated 30.09.2020, 31.10.2020 and 28.11.2020 are annexed herewith as **Annexure R-2**.

- b. Moreover, keeping in view the sensitive nature of the area which is residence to the Hon'ble President of India, the Hon'ble Prime Minister of India, Hon'ble Supreme Court Judges and various other international and national dignitaries, an order under Section 144, Cr PC prohibiting *inter alia* any protests and demonstrations has been promulgated in Sub-Division Chanakya Puri for the areas falling under PS Chanakya Puri, PS Tuglak Road and PS South Avenue till 20.01.2021. A true copy of order dated 21.11.2020 of the Assistant Commissioner of Police, Sub-Division Chanakyapuri, New Delhi District is annexed herewith as **Annexure R-3**.



7. It is, therefore, submitted that the impugned order has been passed in compliance with the law laid down by the Hon'ble Supreme Court, the orders passed by the DDMA for containing the spread of the Covid-19 pandemic and the order dated 28.11.2020. The Respondents respectfully submit that there is no legal or factual ground for interference with impugned order which deserves to be upheld.
  
8. I have read the contents of the aforesaid paragraphs and the same are true and correct to the best of my knowledge and belief based on official records. n

DEPONENT