

**IN THE SUPREME COURT OF INDIA**  
**CIVIL ORIGINAL JURISDICTION**  
**WRIT PETITION (CIVIL) NO        OF 2022**  
**(PIL UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)**

**IN THE MATTER OF:**  
Devkinandan Thakur Ji

.Petitioner

versus

1. Union of India  
Through the Secretary,  
Ministry of Home Affairs,  
North Block, New Delhi-110001,
2. Union of India  
Through the Secretary,  
Ministry of Law & Justice,  
Shastri Bhawan, New Delhi-110001,
3. Union of India  
Through the Secretary,  
Ministry of Women & Child Development  
Shastri Bhawan, New Delhi-110001,
4. Union of India  
Through the Secretary,  
Ministry of Health & Family Welfare,  
Shastri Bhawan, New Delhi-110001,

.....Respondents

**PIL UNDER ARTICLE 32 TO CONTROL THE POPULATION EXPLOSION**

THE HON'BLE CHIEF JUSTICE  
AND LORDSHIP'S COMPANION JUSTICES  
OF THE HON'BLE SUPREME COURT OF INDIA  
HUMBLE PETITION OF ABOVE-NAMED PETITIONER  
**THE MOST RESPECTFULLY SHOWETH AS THE UNDER:**

1. Petitioner is filing this PIL under Article 32 seeking direction to the  
  
Centre to control population explosion in order to secure the basic  
  
rights guaranteed under Articles 14, 15, 19, 21 of the Constitution.

2. **The Facts** constituting cause of action accrued on 10.12.2020, when Centre said that it is against the forcing of family planning and won't take coercion action. Centre passed its obligation though "*Population Control & Family Planning*" is mentioned in concurrent list. Hence Centre can make law and regulation policies to control population explosion, which is the biggest menace to democracy and socio-economic development. It has not even drafted a Bill till date.
3. **The injury** caused to citizens' particularly women, is extremely large. The perils of population explosion on the economy and its ramifications are often discussed. But, the impact that repeated child bearing has on women are seldom highlighted outside the niche areas. Incidence of grand multiparity, which is defined as more than 4 viable births, in developing countries like India is 20% while it is only 2% in developed countries. The ill-effects of repeated pregnancies both on women and the new-borns are devastating. In India, malnutrition-anaemia are rampant in expecting mothers. This becomes worse with repeated pregnancies jeopardizing their health and leading to further adverse pregnancy outcomes. There is increased risk of abortions also in such mothers. Mothers become more prone to infections with repeated pregnancies.

4. The risk of complications during delivery such as cord prolapse, post-dated pregnancy, labour induction, instrumental deliveries, assisted vaginal deliveries and caesarean sections are also higher. Grand multiparity is itself a risk factor both for antepartum haemorrhage that is bleeding before the onset of labour and postpartum haemorrhage, which is increased bleeding after the child birth. It is seen that such women also suffer from more genital tract injuries including rupture of uterus sometimes leading to hysterectomy (surgical removal of the womb). Overall, it results in mothers having longer stay in the hospital, more blood transfusions, more frequent admissions to Intensive care units (ICU) and even increased deaths. The harmful effects of multiple pregnancies are seen not only in mothers but also in babies who are born to such mothers. These babies may be premature, or of low birth weight (<2.5 kg), and may have poor outcomes as indicated by low APGAR score. Sometimes they have a large fetal size that leads to increased birth trauma. There is also an increased incidence of congenital anomalies in such babies. More new-born needs admissions to ICU arising due to fetal distress, abnormal CTG, or sometimes even stillbirths and increased perinatal mortality.

5. The deleterious effects of multiple pregnancies are not only limited to the above said medical conditions. These women spend the most productive and active years of their lives performing the task of childbearing and breastfeeding. With fewer children, they can pursue their hobbies, their dreams and may be able to move towards a better quality of life. A decreased pregnancy load would not only help them achieve their full potential but can also lead to upliftment of their families. It is indeed heartening that India's population growth has come down. However, a strong and effective population control law on the lines of China is the need of hour. More emphasis needs to be laid on women's education and health. They are the foundation for our future generations. If they are physically and mentally fit, confident and independent, they can bring a paradigm change in the society. It is often said that 'a girl with dreams becomes a woman with vision.'
6. Petitioner submits that right to clean air, right to drinking water, right to health, right to peaceful sleep, right to shelter, right to livelihood and right to education guaranteed under Articles 21-21A, can't be secured to all citizens without effective population control, But, Centre has not implemented NCRWC's 24<sup>th</sup> proposal till date.

7. At present, 125 crore Indians have AADHAAR Card, around 20% viz. 25 crore citizens are without AADHAAR, and around 5 crore Bangladeshi and Rohingya infiltrators, illegally reside in India. From this, it is evident that the total population of India is more than 150 crore and India has marched ahead of China. If we calculate natural resources, then we have around 2% of agricultural land and merely 4% of the world. However, population is 20%. If we compare with America then our area is one-third of America and the rate of population growth is eight times of America. In America, 10,000 children are born every day and in India 86,000 children per day.
8. Population explosion is the root cause of most of the problems including shortage of water, forests, land, Bread, clothes and house, poverty and unemployment, hunger and malnutrition and air, water, soil and sound pollution. It is the root cause of the crowds in trains, police stations, tehsils and jails, High Courts and Apex Court. Population explosion is the root-cause of theft, dacoity and snatching, domestic violence, physical and mental harassment of women and separatism, fanaticism, stone pelting etc. From a survey, conducted on thieves, dacoits, snatchers, rapists' mercenaries, it is apparent that about 80% criminals and offenders

are such that their parents have not followed policy of “Ham Do – Hamare Do”. Therefore, it is evident from the above stated facts that population explosion not only brazenly offends right to life liberty dignity but also rule of law.

- 9.** We celebrate International Day for Elimination of Violence against Women on 25 November every year, but violence on women is increasing and the root cause is population explosion. After the birth of a girl, the woman is subjected to physical and mental harassment, though, as per medical science, it depends on the Husband. Some people abandon their first wife if 3-4 daughters are born and perform a second marriage to fulfil their desire to have a son. For daughters to have good health, social economic and political justice, liberty of thoughts, expression, belief, faith, and worship, equality of status and opportunity, a stringent population control law, based on the Model of China, is urgently required.
- 10.** Population explosion is also the root cause of the pitiable condition of our International Ranking. We are ranked 103rd in the Global Hunger Index, 43rd in Suicide Rate, 168<sup>th</sup> in Literacy Rate, 133rd in World Happiness Index, 125<sup>th</sup> in Gender Discrimination, 124th in Minimum Pay, 42nd in Employment Rate, 69<sup>th</sup> in Rule of Law Index,

43<sup>rd</sup> in Quality-of-Life Index, 51<sup>st</sup> in Financial Development Index, 177<sup>th</sup> in Environment Performance Index, 139<sup>th</sup> in GDP Per Capita. However, we are the first in the matter of draining underground water, though we possess only 4% of ground water and merely 2% of agricultural land of the world. Population explosion is also the root cause of corruption. We are ranked 66<sup>th</sup> in 1998, 72<sup>nd</sup> in 1999, 69<sup>th</sup> in 2000, 71<sup>st</sup> in 2001 and 2002, 83<sup>rd</sup> in 2003, 90<sup>th</sup> in 2004, 88<sup>th</sup> in 2005, 70<sup>th</sup> in 2006, 72<sup>nd</sup> in 2007, 85<sup>th</sup> in 2008, 84<sup>th</sup> in 2009, 87<sup>th</sup> in 2010, 95<sup>th</sup> in 2011, 94<sup>th</sup> in 2012, 87<sup>th</sup> in 2013, 85<sup>th</sup> in 2014, 76<sup>th</sup> in 2015, 79<sup>th</sup> in 2016, 81<sup>st</sup> in 2017, 79<sup>th</sup> in 2018, 84 in 2019, 86 in 2020.

- 11.** We celebrate National Pollution Control Day on 2<sup>nd</sup> December and we have made immense efforts to control pollution. But, air, water, soil and sound pollution are constantly increasing due to population explosion. Therefore, the success of the Clean India Healthy India Campaign is doubtful in the absence of a population control law.
- 12.** Save Girl Campaign may be successful, but torture after marriage, cannot be stopped in absence of a strict and effective population control law. After birth of 3-4 daughters, physical and mental torture are hurled on the woman, though the girl child depends on male instead of female. Several people prefer polygamy in the desire

of son. Therefore, India urgently needs an effective population control law to stop discrimination between boys and girls, provide them equal rights and equal opportunity.

- 13.** Tax payers follow “Ham Do-Hamare Do”, but the persons getting subsidized food, clothes, houses are not adhering to it. Thousands of years before, Lord Rama had initiated the rule of Ham Do- Hamare-Do, and for giving clear message to common man, he along with his brothers Laxman, Bharat and Shatrughan, followed “Ham Do-Hamare Do”, though, problem of population was not so dangerous. Population explosion is more dangerous than bomb explosion and without implementing effective population control measures, Healthy India, Literate India, Prosperous India, Resourceful India, Strong India, Secured India, Sensitive India, Clean India, Corruption and Crime-Free India campaign won’t succeed.
- 14.** NCRWC after elaborate discussion had suggested addition of Article 47A in the Constitution and formulation of Population Control Law. Till now the Constitution has been amended 125 times, the decision of this Court has been altered, hundreds of laws have been enacted, but population control Law, utterly required for the country, is not made, though it will curtail more than 50% problems of India.



- 15.** NCRWC is a very prestigious Judicial Commission. Former Chief Justice of India Justice Vankatchalaih was the Chairman and Justice Sarkaria, Justice Jeevan Reddy and Justice Punnaiya were its members. Former Attorney General Mr. Keshav Parasaran and Soli Sorabjee and Loksabha Secretary General Mr. Subhash Kashyap were its members. The Member of Parliament Sumitra Jee and late P.A. Sangama Ji was also its Member. Senior Journalist C.R. Irani and Mr. Abid Hussain, Ambassador to America, were also members.
- 16.** As long as 02 crore homeless people would be given homes, around 10 crore homeless children will be born. Legislators, sociologists, environmentalists, educationists, judges, philosophers, thinkers and journalists agree to the point that population explosion is the root cause of more than 50% problems of our country. The NCRWC, after discussion with all stakeholders, handed over its report to the Centre on 31.3.2002. MGNREGA, RTE,, RTI and Right to Food were enacted on its recommendations but population control law was not even discussed in the parliament. The proposals related to Electoral-Police-Judicial-Administrative Reform and effectuation of fundamental duties are also pending. So NCRWC recommendations should be put on the floor for wide discussion and implementation.

17. Now India has 80 crore BPL Population. It is not a trifling matter that population density is at a humongous 404 persons per square kilometer of area, whereas the global density is at a nominal 51 persons per square kilometer of land area. The enormity of the crisis becomes quickly apparent when the population density figures of certain other countries (both developed as well as developing nations) are juxtaposed with that of India. While developed nations such as the USA and UK are at population densities of 33 and 271 persons respectively per square kilometre, those in countries of comparable economic conditions such as Brazil and South Africa fare tremendously better with a density figure of 25 and 46 persons per square kilometer respectively. What stands in stark contrast to underpin the magnitude of the crisis is that China, being the most populous country in the world, has a population density of only 144 persons per square kilometer. The Taxpayers are regularly increasing their contribution through taxes to fight with poverty but the vote bank politics has been misusing the hard-earned money of taxpayers for the past 70 years and there is an utter lack of implementation strategy to banish poverty from the Nation. India has 2% land area of the world with the Population of nearly 20%.

**18.** Taxpayers have been contributing for the development since 1947.

The money paid by them is used for growth, development, security of the nation, services for citizens and many more. Taxpayers are earning members and are the real nation builders and it is their responsibility to check whether people's representatives elected by them and public servants are using their funds properly or not. Every year the population is increasing but the amount of natural resources to sustain this population are diminishing. We have to think about the conditions of our natural resources. Now we have no fresh air to breathe, no fresh water to drink, no fresh food to eat and many more. India is an agricultural based economy but agricultural area is decreasing every subsequent year. Same with forest covered, glaciers, fresh water reserves and many more. The one thing that is increasing is population and the result is increase in unemployment poverty starvation, food adulteration, health issues, crime and many more. Supply demand ratio has a huge difference. Revival of natural resources is a must for generations. Population is quite large and rapidly increasing. Two percent growth rate means an addition of about 3 crore people every year. Therefore, population control measure is the need of hour.

**19.** Fertility depends on the age of marriage. Therefore, the minimum age of marriage of females should be raised. Presently, minimum age for marriage is 21 years for male and 18 years for female, which is arbitrary discriminatory and offends Articles 14-15. Petitioner feels that minimum age should be 21 years for both male and female and it should be firmly implemented. There is more discrimination to the female. They are confined to four walls of the house. They are still confined to rearing and bearing children. Women should be given more opportunities to develop socially and economically. Free education should be given to them, but, it is impossible without restricting child marriage act. The educated men prefer to delay marriage and adopt small family norms. Educated women are health conscious, avoid frequent pregnancies and thus help in lowering birth rate. Some parents don't have any children, despite medical treatment. They may be advised to adopt orphan children. Social outlook of people should undergo a change. Issueless women should not be looked down upon. More and more people should be covered under-social security schemes. So that they do not depend upon others in the event of old age, sickness, unemployment etc. with these facilities they will have no desire for more children.

**20.** It's notable that as far back as 1976 at time of implementing the 42<sup>nd</sup> Amendment Act to the Constitution, Entry 20A was inserted in the List-III to Schedule-VII which is *Population Control-Family Planning*. The imperative of the insertion in the Concurrent List is palpable that the federal States also have a say in the matter of population control. However, the years following the said amendment have only brought to light the apathy of respondents in tackling the problem of population explosion, and the entire scheme of population control and family planning has been relegated to goodwill of individual States, while the respondents have largely washed its hands off from this issue. There is no chapter on the menace of population explosion in the syllabus and curriculum. It is highlighted that the plight of an enormous population growth is not a matter which can be solely handled or effectively tackled by the States alone. A high population growth rate cuts across various rights and sectors which can only meaningfully be controlled or tempered by the intervention of the respondents. The Centre and States are empowered to enact stringent population control laws. But, due to appeasement and vote bank politics they have not taken appropriate steps till date.

**21.** Following Amendment in 1976, some States has implemented laws to disqualify from contesting elections to local bodies in the circumstance that one has more than two children. However, sporadic changes to law in only certain states shall never manage to yield results. It is therefore, the need of the hour that Centre takes steps to assess and control rapid growth of population. In fact, an anomalous situation has arisen due to the dispersed nature of these legislations directed towards population control in certain States. While a representative to a local body in the State where population control laws have been implemented stand disqualified for having more than two children, those in other States enjoy a complete immunity from such disqualification. Thus, elected representative is subjected to differing standards of public accountability while all along being subjected to the same constitutional standards. Therefore, a uniform system of population control strategies and the creation of a national matrix is not only the pressing need of the hour, but is also in line with the constitutional mores. Same shall not only be a manifestation of the constitutional guarantee of equal protection of laws but also go a long way in ensuring economic planning to garner constitutional rights to all.

**22.** Executive should raise the employment avenues in rural areas.

Generally, in rural areas there is disguised unemployment. Therefore, efforts should be made to migrate unemployed persons from the rural side to urban side. If agriculture and industry are properly developed, a large number of people will get employment. When their income is increased, they will improve their standard of living and adopt small family norms. People in urban areas have a lower birth rate than those living in the rural areas. Therefore, urbanization should be encouraged in villages. Girl's marriage should be solemnized after the age of 21 years. This will reduce the period of reproduction and bring down the birth rate.

**23.** Improved standard of living acts as a deterrent to large family norms. In order to maintain a higher standard of living people prefer to have a small family. According to a survey, those who earn less than Rs. 100 per month have on an average a reproduction rate of 4 children and those earning more than Rs. 300 per month have a reproduction rate of 3 children. Self-control is the most powerful method. It is an ideal and healthy approach and people should be encouraged to follow. It helps in reducing the birth rate. This method implies family by choice and not by chance. By applying

preventive measures, people can regulate the birth rate. This method is being used extensively; success of this method depends on the availability of cheap contraceptive devices for birth control. Birth rate will likely fall if there are different recreational facilities - cinema; theatre, sports, dance etc. are available to people.

- 24.** TV, radio and newspaper are good means to propagate the benefits of planned family to the uneducated and illiterate persons especially in rural and backward areas. The Executive can give various types of incentives to adopt birth control measures. Monetary incentives and other facilities- leave and promotion can be extended to the working class, which adopts small family norms. Another method to check population is to provide employment to women. Women should be given incentive to give services in different fields. The Executive has not appropriately formulated and successfully implemented policies to control population explosion. There is no aggressive sterilization campaign, targeting men and women both. India is the world's most populous country. Teaching poorly educated women about the use of contraceptive pills in remote communities is more expensive than mass sterilization campaigns, despite successive years of economic growth, governments have systematically chosen cheaper options.



25. The problem of child marriage is highly prominent in many States.

A marriage at a tender age leads to a long reproductive span in women. Also, marriage at a young age prevents people from acquiring the education and awareness required to be sensitive towards and understand the consequences of raising too many children. However, the Government is not taking appropriate steps in this regard. One big drawback of India is that of limited and highly centric medical facilities. Because of the high rural-urban divide, availability of good hospitals and doctors is limited to urban centres thus resulting in high infant mortality rate in rural areas. Rural people, in order to ensure that at least some of their kids survive, give birth to more and more kids thus contributing to population growth. If provided with optimum medical facilities the population rate will almost certainly decline. From the above, it is evident that the issue of population control and family planning is not one which can be tackled on piecemeal basis. The phenomenon of population explosion in this country is a result of multifarious factors, social, economic, health etc. Therefore, development of a national matrix, taking into account these diverse factors is essential for a meaningful strategy to contain population growth.

**26.** Not much result can be achieved, if family planning and use of contraception remains optional instead of mandatory. Strict legal steps are required for child marriage, education, abolition of child labour and beggary and family planning to reap significant benefits from it. Proper enforcement of laws related to child labour, slavery and beggary, polygamy will ensure that parents do not sell their children or send them out to work thus forcing them to raise lesser number of kids. The women folks are not considered equivalent to men in terms of force and might and such opinions are extremely common and it is a major reason for population growth. People keep giving birth to kids in order to have more sons than daughters. Empowering woman with a say in matters concerning them like childbirth and educating them to fight against discrimination will ensure a healthy society. Child labour slave trading human trafficking is highly prevalent. People give birth to kids and sell them to rich people who in turn employ these kids in laborious and unethical tasks. If not sold, these parents force their kids to beg or work at a very tender so as to earn some extra money. These people believe that more kids mean more hands thus more money. Thus, without stringent law, other methods will not be ineffective.

27. Ensuring that people have easy access to contraception tools will help avoid cases of unwanted pregnancies and births. State owned hospitals should be made to provide cheap, efficient birth control medicines since poor people have neither the means nor awareness to use contraception. Use of condoms and contraceptives must be advertised and promoted along with ensuring cheap and ready access to these. Contraceptives do not only prove to be an important population control measure but also prevents spreading of transmitted diseases thus ensuring small healthy families. So, it is the duty of the Centre to take steps to control population explosion. Enormous population and the increasing rate of it is the biggest challenge while the same is only of little concern in developed countries. Lack of development implies high poverty, illiteracy, discrimination, lack of awareness, lack of medical facilities and thus in turn increased population growth. Any economy is termed developed if its population is non-discriminated. By reducing gender discrimination, ensuring development of whole population instead of given segment of society would eliminate challenge of population growth. A U.N. report has suggested that there would be a significant decline in population if legal age for marriage is 21 years.

**28.** Family planning is based on efforts largely sponsored by the Centre. In the 1965-2009 period, contraceptive usage has more than tripled (from 13% of married women in 1970 to 48% in 2009) and fertility rate has more than halved (from 5.7 in 1966 to 2.4 in 2012), but the national fertility rate is still high enough to cause long-term population growth. India adds about 1,75,00,000 people to its population each year. So, the efficacy and success of a national matrix, when undertaken across the country is evident from the above. In light of the same, it is essential that a concerted and holistic approach is adopted for population control instead of stand-alone, sporadic and dispersed strategies adopted in a variegated fashion across different states in the country. Awareness of contraception is near-universal among married women in India. However, the vast majority of married Indians (76% in a 2009 study) reported significant problems in accessing a choice of contraceptive methods. In 2009, 45% of married women were estimated to use contraceptive methods, i.e., more than half of all married women did not. About three-fourths of these were using female sterilization, which is by far the most prevalent birth-control method in India. But the Centre is not taking steps in this regard.

29. Keeping in view the above stated facts and circumstances, it is respectfully prayed that being protector of fundamental rights, this Hon'ble Court may graciously be pleased to: **(a)** direct the Centre to frame stringent and effective rules regulations and guidelines to control population explosion in order to secure fundamental rights viz. right to clean air, right to clean water, right to food, right to health, right to peaceful sleep, right to shelter, right to livelihood, right to education and right to dignity; **(b)** direct the Centre to ascertain the feasibility of making Two Child Norm as a mandatory criterion for government jobs, aids, subsidies as well as right to vote, right to contest and right to free shelter; **(c)** direct Centre to declare First Sunday of every month as '*Population Control Day*' in place of 'Polio Day' in order to spread awareness on population explosion and provide condoms vaccines contraceptive pill etc. to EWS and BPL parents and polio vaccines to children; **(d)** in the alternative, direct the Law Commission of India to examine population control laws and policies of the developed countries and prepare a comprehensive Report within three months.\_The Court may pass such other order/direction(s) as deems fit and proper in facts and circumstances of the case and interest of justice.

**30. The Power Conferred by Article 32 of the Constitution of India**

is in the widest terms and is not confined to issuing the high prerogative writs specified therein, but includes within its ambit the power to issue any directions or orders or writs which may be appropriate for enforcement of fundamental rights. Therefore, even when the conditions for issue of any of these writs are not fulfilled, the Supreme Court would not be constrained to fold its hand in despair and plead inability to help the citizen who has come before it for judicial redress. The Court is not helpless to grant relief in a case of violation of right to life and liberty and it should be prepared to *“forge new tools and device new remedies”*.

**31.** For purpose of vindicating these precious fundamental rights, in so far as the Supreme Court is concerned, apart from Articles 32 and 142, which empower the Court to issue such directions as may be necessary for doing complete justice in any matter, Article 144 also mandates all authorities civil or judicial in the territory of India, to act in aid of the order passed by Supreme Court. Being protector of civil liberties of citizens, the Supreme Court has not only the power and jurisdiction, but also an obligation to protect the fundamental rights, guaranteed by **Part-III** in general and under Article 21 in

particular, zealously and vigilantly. The Supreme Court and High Courts are the sentinels of justice and have been vested with extraordinary powers of judicial review to ensure that rights of citizens are duly protected. **[ML SHARMA (2014) 2 SCC 532]**

- 32.** It is not merely the right of individuals to move the Supreme Court, but also the responsibility of the Court to enforce fundamental rights. Therefore, if the petitioner satisfies the Supreme Court that his fundamental right has been violated, it is not only the 'right' and 'power', but the 'duty' and 'obligation' of the Court to ensure that the petitioner's fundamental right is protected and safeguarded.

**[Ramchandran, Law of Writs, 6<sup>th</sup> Edition, 2006, Pg. 131, Vol-1]**

- 33.** Power of the Supreme Court is not confined to issuing prerogative writs only. By using the expression "in the nature of", the jurisdiction has been enlarged. The expression "in the nature of" is not the same thing as the other phrase "of the nature of". The former emphasis is essential in nature, the latter is content with mere similarity. **[M. NAGRAJ (2006) 8 SCC 212]**

- 34. Supreme Court cannot refuse an application under Article 32,** merely on the grounds: **(i)** that such application has been made to Supreme Court in the first instance without resort to the High Court

under Article 226 **(ii)** that there is some adequate alternative remedy available to petitioner **(iii)** that the application involves an inquiry into disputed questions of fact / taking of evidence. **(iv)** that declaratory relief i.e., declaration as to unconstitutionality of impugned statute together with consequential relief, has been prayed for **(v)** that the proper writ or direction has not been paid for in the application **(vi)** that the common writ law has to be modified in order to give proper relief to the applicant. **[K.K. KOCHUNNI v. STATE OF MADRAS, AIR 1959 SC 725 (729)] (vii)** that the Article in part three of the Constitution, which is alleged to have been infringed, has not been specifically mentioned in petition, if the facts stated therein, entitle the petitioner to invoke particular article. **[PRESS TRUST OF INDIA, AIR 1974, SC 1044]**

35. Article 32 of the Constitution provides important safeguard for the protection of the fundamental rights. It provides guaranteed quick and summary remedy for enforcing the fundamental right because a person complaining of breach of any of his fundamental rights by an administrative action can go straight to the Court for vindication of his right without having to undergo directory processes of proceeding from lower to the higher court as he has to do in other



ordinary litigation. The Court is the protector, defender & guarantor of fundamental rights of the people. It was held: “*the fundamental rights are intended not only to protect individual rights but they are based on high public rights. Liberty of the individual and protection of fundamental rights are the very essence of democratic way of life adopted by the Constitution and it is the privilege and duty of this Court to uphold those rights. This Court would naturally refuse to circumscribe them or to curtail them except as provided by the Constitution itself.*” [DARYAO v. STATE OF UP, AIR 1961 SC 1457]

36. In another case, the Supreme Court held: “*the fundamental right to move this Court can therefore be described as the cornerstone of the democratic edifice raised by the Constitution. That is why it is natural that the Court should regard itself as the protector and guarantor of fundamental rights and should declare that it cannot consistently with the responsibility led upon it, refuse to entertain applications seeking protection against infringement of such right. In discharging the duties assigned to it, the Court has to play the role of a “sentinel on the qui vive” and it must always regard it as its solemn duty to protect the said fundamental right zealously and vigilantly.*” [PREM CHAND GARG AIR 1963 SC 996].

**37. The Language used in Articles 32 and Article 226 is very wide**

and the powers of the Supreme Court as well as of the High Court's extends to issuing orders, writs or directions including writs in the nature of habeas corpus, mandamus, quo warranto, prohibition and certiorari as may be considered necessary for enforcement of the fundamental rights and in the case of the High Courts, for other purposes as well. In view of the express provision of the Constitution, there is no need to look back to procedural technicalities of the writs in English Law. The Court can make an order in the nature of these prerogative writs in appropriate cases in appropriate manner so long as the fundamental principles that regulate the exercise of jurisdiction in matters of granting such writ are observed [T.C. BASAPPA v. T. NAGAPPA, AIR 1954 SC 440]

**38. An application under Article 32 cannot be thrown out simply**

because the proper direction or writ has not been prayed for. Thus, where an order in the nature of mandamus is sought in a particular form, nothing bars the Court from granting it in a different form. Article 32 gives a very wide discretion in the matter of framing the writ to suit the exigencies of particular cases. [CHARANJIT LAL CHOWDHURY v. UOI AIR 1951 SC 41] Even if petitioner has asked

for wider relief which cannot be granted by Court, it can grant such relief to which the petitioner is entitled to **[B.R. RAMABHADRIAH, AIR 1981 SC 1653]**. The Supreme Court has power to grant consequential relief to do full and complete justice even in favor of those persons who may not be before the Court or have not moved the Supreme Court. **[PRABODH VERMA, AIR 1985 SC 167]**

- 39.** For the protection of fundamental right and rule of law, the Court under this article can confer jurisdiction on a body or authority to act beyond the purview of statutory jurisdiction or function, irrespective of the question of limitation prescribed by the statute. Exercising such power, the Supreme Court entrusted the NHRC to deal with certain matters with a direction that the Commission would function pursuant to its direction and all the authorities are bound by the same. NHRC was declared not circumscribed by any condition and given free hand and thus act *sui generis* conferring jurisdiction of special nature **[PARAMJIT KAUR AIR 1999 SC 340]**
- 40.** Simply because a remedy exists in the form of Article 226 for filing a writ in High Court, it does not prevent or bar an aggrieved person from directly approaching Supreme Court under Article 32. It is true that the Court has imposed a self-restraint in its own wisdom on

exercise of jurisdiction where an aggrieved person has an effective alternative remedy in the form of Article 226. However, this rule which requires the exhaustion of alternative remedies is a rule of convenience and a matter of discretion rather than rule of law. It does not oust the jurisdiction of the Court to exercise its jurisdiction under Article 32. [MOHAMMED ISHAQ (2009) 12 SCC 748]

41. **The Supreme Court is entitled to evolve the New Principles of Liability** to make the guaranteed remedy to enforce fundamental rights real and effective, to do complete justice to aggrieved persons. It was held that the court was not helpless and the wide powers given to the Court by Article 32 of the Constitution, which is fundamental right imposes a constitutional obligation on the Supreme Court to forge such new tools, which may be necessary for doing complete justice and enforcing the fundamental rights guaranteed in the Constitution, which enables award of monetary compensation in appropriate cases, where that is the only redress available. The remedy in public law has to be more readily available when invoked by have-nots who are not possessed of the wherewithal for enforcement of their right in private law, even though its exercise is to be tempered by judicial restraint to avoid

circumvention of private law remedies, which are more appropriate.

Under Article 32, the Court can pass appropriate orders to do complete justice between parties even if it is found that a petition filed is not maintainable in law. **[SAIHBA ALI (2003) 7 SCC 250]**

- 42.** Petitioner full name is Devkinandan Thakur Ji, Residence at \_\_\_\_\_ Ph.\_\_\_\_\_, Email: info@vssct.com, PAN:\_\_\_\_\_, AADHAAR:\_\_\_\_\_, Income Rs. \_\_\_ LPA, Petitioner is an Indian Saint, Religious Guru, Spiritual Pundit and Orator of Vedas Puranas Ramayana Bhagwat Geeta and Ram Charit Manas. Petitioner has founded Vishwa Shanti Seva Charitable Trust, which is striving for welfare of EWS, BPL and downtrodden citizens.
- 43.** Petitioner has not filed any other petition either in this Court or in any other Court seeking same or similar directions as prayed.
- 44.** Petitioner has no personal interests, individual gain, private motive or oblique reasons in filing this writ petition as PIL.
- 45.** There is no civil, criminal or revenue litigation, involving petitioner, which has or could have legal nexus, with issue involved.
- 46.** Petitioner has not submitted any representation to authorities as the issues involved are interpretation of the Constitution.

**PRAYERS**

It is respectfully prayed that the Hon'ble Court may be pleased to issue a writ order or direction or a writ in nature of mandamus to:

- a) direct the Centre to ascertain the feasibility of enacting a stringent population control law in order to secure fundamental rights mainly rule of law, right to air, right to water, right to food, right to health, right to sleep, right to shelter, right to livelihood, right to justice and right to education guaranteed under Articles 14, 19, 21, 21A;
- b) in the alternative, direct the Law Commission of India to examine the population control laws and population control policies of the developed countries and suggest the population control steps in order to secure the fundamental rights particularly right to clean air right to clean water, right to food, right to health, right to peaceful sleep, right to shelter, right to livelihood and right to education;
- c) pass such other order/direction as Court deems fit to secure the fundamental rights of citizens particularly right to clean air, right to clean water, right to food, right to health, right to peaceful sleep, right to shelter, right to livelihood and right to education.

**06.06.2022**

**(ASHUTOSH DUBEY)**

**NEW DELHI**

**ADVOCATE FOR PETITIONER**