

**IN THE HIGH COURT OF DELHI AT NEW DELHI
WRIT PETITION (C) NO OF 2022
(PIL UNDER ARTICLE 226 OF THE CONSTITUTION)**

IN THE MATTER OF:

ASHWINI KUMAR UPADHYAY ...PETITIONER

VERSES

UNION OF INDIA & OTHERS ...RESPONDENTS

MEMO OF PARTIES

Ashwini Kumar Upadhyay
S/o Sh. Suresh Chandra Upadhyay
Office: 15, M.C. Setalvad Chambers, Supreme Court of India,
Residence: G-284, Govindpuram, Ghaziabad-201013 ...Petitioner

Verses

- 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 Education,
Shashti Bhawan, New Delhi-110001
- 3. Union of India**
Through the Secretary, Ministry of Law & Justice,
Shastri Bhawan, New Delhi-110001
- 4. Union of India**
Through the Secretary, Ministry of Culture,
Shastri Bhawan, New Delhi-110001
- 5. Government of NCT of Delhi**
Through the Chief Secretary,
Delhi Secretariat, IP Estate, New Delhi-110002
- 6. National Council for Education Research and Training**
Through the Chairman
NCERT, Sri Aurobindo Marg, New Delhi-110001 ...Respondents

PETITIONER-IN-PERSON

(Ashwini Kumar Upadhyay)
Advocate En. No-D/1119/2012
15, M.C. Setalvad Chambers
Supreme Court, New Delhi-01
G-284, Govindpuram, Gzb-13

New Delhi

24.05.2022 #08800278866, 9911966667

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SYNOPSIS AND LIST OF DATES

Petitioner is filing this writ petition as PIL under Article 226 seeking a declaration that *“the song ‘Vande Mataram’, which had played a historic part in the struggle for Indian freedom, shall be honoured equally with ‘Jana-Gana-Mana’ and shall have equal status with it in spirit of the Statement made by the Constituent Assembly Chairman Hon’ble Dr. Rajendra Prasad with regard to the National Anthem, on 24.01.1950”*. Petitioner also seeks direction to respondents to ensure that *‘Jana-Gana-Mana’ and ‘Vandemataram’ is played and sung in all schools and educational institutions on every working day.*

On 24.01.1950, Constituent Assembly Chairman Dr. Rajendra Prasad said: *“There is one matter which has been pending for discussion, namely the question of the National Anthem. At one time, it was thought that the matter might be brought up before the House and a decision taken by the House by way of a resolution. But it has*

been felt that, instead of taking a formal decision by means of resolution, it is better if I make a statement with regard to the national anthem. Accordingly, I make this statement.

Composition consisting of the words and music known as 'Jana Gana Mana' is the 'National Anthem of India', subject to such alternations in the words, as the Government may authorize as occasions arises; and the song 'Vande Mataram', which has played a historic part in the struggle for Indian freedom, shall be honoured equally with 'Jana Gana Mana' and shall have equal status with it. I hope this will satisfy the members."

Our Constitution is the result of commitments, promises and pledges made by the framers to the people. It embodies effort at reconciliation, accommodation and comprise. 'Vandemataram' is the symbol of our history, sovereignty, unity and pride. If any citizen by any overt or covert act shows disrespect to it, it would not only be an anti-social activity but it would also spell doom to all our rights and very existence as a citizen of a sovereign nation. Every citizen must therefore not only refrain from any such activities but also do his best to prevent if any miscreant trying to show any disrespect to 'Vandemataram'. We must be proud of our Nation, our Constitution,

National Anthem and National Flag and put national interest above our personal interests and only then will we be able to protect our hard-earned freedom and sovereignty. It is duty of the executive to frame a national policy to promote and propagate 'Vandemataram'.

'Vande Mataram' is a poem, written by Sh. Bankim Chandra Chatterjee. It literally means *I praise thee Mother* but the translation by Sh. Aurobindo is rendered as '*I bow to thee Mother*'. It played a vital role in the Indian independence movement, and was first sung in a political context by Sh. Tagore at the 1896 session of the Indian National Congress. English translation of first two versus by Sh. Arvindo is thus: "*Mother, I bow to thee, Rich with thy hurrying streams, bright with orchard gleams, Cool with thy winds of delight, Dark fields waving Mother of might, Mother free. Glory of moonlight dreams, Over thy branches and lordly streams, Clad in thy blossoming trees, Mother, giver of ease Laughing low and sweet! Mother I kiss thy feet, Speaker sweet and low! Mother, to thee I bow. Who hath said thou art weak in thy lands, when the swords flash out in seventy million hands And seventy million voices roar, Thy dreadful name from shore to shore, With many strengths who art*

mighty and stored, To thee I call Mother and Lord! Thou who savo.est, arise and save!”.

Sh. Chatterjee was very interested in 1957 Revolt and Sanyasi Rebellion. At the same time, administration was trying to promote ‘God Save the Queen’ as ‘National Anthem of India’, which Indian nationalists disliked. So, he wrote ‘Vande Mataram’ spontaneously using Sanskrit and Bengali words. It was published in book ‘Anandamatha’ in 1882, which is set in the events of Sannyasi Rebellion. Sh. Jadunath Bhattacharya set the tune for this poem.

‘Vande Mataram’ was the whole nation’s thought and motto for independence from British during independence movement. Large rallies, fermenting initially in major cities, work themselves up into a patriotic fervor by shouting the slogan ‘Vande Mataram’. The British, fearful of the potential danger of incited populace, at one point of time banned the utterance of ‘Vande Mataram’ at public places and imprisoned many independence activists for disobeying the proscription. Sh. Rabindranath Tagore sang ‘Vande Mataram’ in 1896 at the Calcutta Congress Session. Sh. Dakhina Charan Sen sang Vande Mataram five years later in 1901 in another Congress Session at Calcutta. Smt. Sarala Devi Chaudurani sang ‘Vande Mataram’ in

Benares Congress Session in 1905. Sh. Lala Lajpat Rai started a journal called '*Vande Mataram*' from Lahore.

Sh. Hiralal Sen made India's first political film in 1905, which ended with '*Vande Mataram*'. Smt. Matangini Hazra's last words as the Police shot her to death was '*Vande Mataram*'. The first version of 'National Flag' created by Bhikaiji Cama in 1907, had '*Vande Mataram*' written in its middle band. The book titled 'Kranti Geetanjali' published by Arya Printing Press (Lahore) and Bharatiya Press (Dehradun) in 1929 contains first two stanzas of '*Vande Mataram*' on Page 11 as the 'Matra Vandana'. The Ghazal '*Vande Mataram*' composed by Pt. Ram Prasad Bismil is also written on its back, i.e. Page 12. The book written by famous martyr of Kakori Pandit Pt. Bismil was proscribed by the then British Government.

On 05.09.2006, All India Muslim Personal Law Board Vice President Maulana Kalbe Sadiq asked: "*Does 'Vande Mataram' mean salutation or worship?*" The very next day on 6.9.2006, All India Sunni Ulema Board issued a fatwa saying that "*Muslims can sing first two verses of Vande Mataram*". Board president Moulana Mufti Syed Shah Badruddin Qadri Aljeelani said: "*If you bow at the feet of your mother with respect, it is not shirk but only respect.*"

Christian Priest Father Cyprian Kullu from Jharkhand also said:

“The ‘Vande Mataram’ song is a part of our history and national festivity and religion should not be dragged into such mundane things. The ‘Vande Mataram’ is simply a National Song without any connotation that could violate the tenets of any religion.” Moreover, in 2002, BBC World Service conducted worldwide poll to choose best song. Around 7000 songs were selected and the ‘Vande Mataram’ from the movie ‘Anand Math’ was ranked second.

India is Union of States and not association or confederation of States. There is only one nationality i.e. Indian and it is duty of every Indian to respect the *Vande Mataram*. In order to keep the country united, it is duty of the Government to frame a National Policy to promote-propagate ‘Jana Gana Mana’ and Vande Mataram. There is no reason why it should evoke any other sentiment as the both are decided by Constitution makers.

The sentiments expressed in *Jana Gana Mana*’ have been expressed keeping the State in view. However, sentiments expressed in ‘Vande Mataram’ denote the nation’s character and style and deserve similar respect. Sometimes Vande mataram is sung in such circumstances which are not permissible and can never be

countenanced in law. It is the duty of every Indian to show respect when *Vandemataram* is played/sung.

Vandemataram should not be utilized by which the person involved with it directly or indirectly and shall have any commercial benefit.

There shall not be dramatization of *Vandemataram* and it must not be included in any variety show because when *Vandemataram* is sung/played, it is imperative on the part of every one present to show due respect and honour. To think of a dramatized exhibition of *Vandemataram* is inconceivable. It shall not be printed on any object and never be displayed in such a manner at such places, which may be disgraceful to its status and tantamount to disrespect.

24.01.1950: Constituent Assembly said that *song 'Vande Mataram', which has played historic part in the struggle for Indian freedom, shall be honoured equally with 'Jana Gana Mana' and shall have equal status with it. (Apendix)*

25.7.2017: Madras High Court said that "*Vande Matharam*" shall be played in all education institutions. (Annexure-1)

05.12.2017: Inter-Ministerial Committee was formed to frame the guidelines for National Anthem (mentioned Annex-2)

09.01.2018: Supreme Court passed Judgement in Shyam Narayan

Chouksey Case [(2018) 2 SCC 574] (Annexure-2)

24.5.2022: Centre has not framed the guideline. Hence, this PIL.

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[PIL UNDER ARTICLE 226 OF THE CONSTITUTION]**

IN THE MATTER OF:

ASHWINI KUMAR UPADHYAY

...PETITIONER

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

**PIL UNDER ARTICLE 226 TO FRAME GUIDELINES IN SPIRIT
OF THE CONSTITUENT ASSEMBLY RESOLUTION 24.01.1950**

To,

THE HON'BLE CHIEF JUSTICE

AND LORDSHIP'S COMPANION JUSTICES

OF THE HON'BLE HIGH COURT OF DELHI

HUMBLE PETITION OF ABOVE-NAMED PETITIONER

THE MOST RESPECTFULLY SHOWETH AS THE UNDER:

1. Petitioner is filing this writ petition as PIL under Article 226 seeking a declaration that *“the song ‘Vande Mataram’, which had played a historic part in the struggle for Indian freedom, shall be honoured equally with ‘Jana-Gana-Mana’ and shall have equal status with it in spirit of the Statement made by the Constituent Assembly Chairman Hon’ble Dr. Rajendra Prasad with regard to the National Anthem, on*

- 24.01.1950”. Petitioner also seeks direction to respondents to ensure that ‘Jana-Gana-Mana’ and ‘Vandemataram’ is played and sung in all schools and educational institutions on every working day.
2. On 25.07.2017, the Madras High Court passed landmark judgment in WP-32316/2013, which is annexed as **Annexure-1**. (Pg.
 3. On 09.01.2018, Apex Court passed Judgement in Shyam Narayan Chouksey Case (2018) 2 SCC 574 which is **Annexure-2**. (pg.
 4. Petition is not guided by self-gain or for gain of any other individual person, institution or body. There is no motive other than the larger public interest and national interest in filing this writ petition.
 5. Petitioner has no personal interest or individual gain, private motive or oblique reasons in filing this PIL. Petitioner has not filed any other similar petition in any other Court.
 6. The source of averments made in this PIL is personal knowledge, Judgment of Supreme Court and High Court, Constitution Assembly Debates and the information collected from government websites.
 7. Present petition is for the benefit of all citizens. As everyone is not incapable of accessing this Court themselves, petitioner is filing this PIL to secure their most important fundamental right.

8. Centre and State is likely to be affected by the orders sought in this petition, which has been impleaded as Respondent. Petitioner submits that to its knowledge, no other persons, bodies, institutions are likely to be affected by the order sought in this petition.
9. Petitioner is Ashwini Kumar Upadhyay. _____. Annual Income is _____. Petitioner is an Advocate and a social-political activist, striving for the development of socially-economically downtrodden citizens. Petitioner is able to bear the cost, if imposed by the Court.
10. Petitioner has not submitted any representation to the respondents. There is no requirement to move concerned authority for relief sought in this writ petition. There is no other remedy available.
11. On 24.01.1950, Constituent Assembly Chairman Dr. Rajendra Prasad said: *“There is one matter which has been pending for discussion, namely the question of the National Anthem. At one time, it was thought that the matter might be brought up before the House and a decision taken by the House by way of a resolution. But it has been felt that, instead of taking a formal decision by means of resolution, it is better if I make a statement with regard to the national anthem. Accordingly, I make this statement.*

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12. Our Constitution is the result of commitments, promises and pledges made by the framers to the people. It embodies effort at reconciliation, accommodation and comprise. ‘Vandemataram’ is the symbol of our history, sovereignty, unity and pride. If any citizen by any overt or covert act shows disrespect to it, it would not only be an anti-social activity but it would also spell doom to all our rights and very existence as a citizen of a sovereign nation. Every citizen must therefore not only refrain from any such activities but also do his best to prevent if any miscreant trying to show any disrespect to ‘Vandemataram’. We must be proud of our Nation, our Constitution, National Anthem and National Flag and put national interest above our personal interests and only then will we be able to protect our

hard-earned freedom and sovereignty. It is duty of the executive to frame a national policy to promote and propagate 'Vandemataram'.

13. 'Vande Mataram' is a poem, written by Sh. Bankim Chandra Chatterjee. It literally means *I praise thee Mother* but the translation by Sh. Aurobindo is rendered as '*I bow to thee Mother*'. It played a vital role in the Indian independence movement, and was first sung in a political context by Sh. Tagore at the 1896 session of the Indian National Congress. English translation of first two versus by Sh. Arvindo is thus: "*Mother, I bow to thee, Rich with thy hurrying streams, bright with orchard gleams, Cool with thy winds of delight, Dark fields waving Mother of might, Mother free. Glory of moonlight dreams, Over thy branches and lordly streams, Clad in thy blossoming trees, Mother, giver of ease Laughing low and sweet! Mother I kiss thy feet, Speaker sweet and low! Mother, to thee I bow. Who hath said thou art weak in thy lands, when the swords flash out in seventy million hands And seventy million voices roar, Thy dreadful name from shore to shore, With many strengths who art mighty and stored, To thee I call Mother and Lord! Thou who savo.est, arise and save!*".

14. Sh. Chatterjee was very interested in 1957 Revolt and Sanyasi Rebellion. At the same time, administration was trying to promote 'God Save the Queen' as 'National Anthem of India', which Indian nationalists disliked. So, he wrote 'Vande Mataram' spontaneously using Sanskrit and Bengali words. It was published in book 'Anandamatha' in 1882, which is set in the events of Sannyasi Rebellion. Sh. Jadunath Bhattacharya set the tune for this poem.
15. 'Vande Mataram' was the whole nation's thought and motto for independence from British during independence movement. Large rallies, fermenting initially in major cities, work themselves up into a patriotic fervor by shouting the slogan 'Vande Mataram'. The British, fearful of the potential danger of incited populace, at one point of time banned the utterance of 'Vande Mataram' at public places and imprisoned many independence activists for disobeying the proscription. Sh. Rabindranath Tagore sang 'Vande Mataram' in 1896 at the Calcutta Congress Session. Sh. Dakhina Charan Sen sang *Vande Mataram* five years later in 1901 in another Congress Session at Calcutta. Smt. Sarala Devi Chaudurani sang 'Vande Mataram' in Benares Congress Session in 1905. Sh. Lala Lajpat Rai started a journal called 'Vande Mataram' from Lahore.

- 16.** Sh. Hiralal Sen made India's first political film in 1905, which ended with '*Vande Mataram*'. Smt. Matangini Hazra's last words as the Police shot her to death was '*Vande Mataram*'. The first version of 'National Flag' created by Bhikaiji Cama in 1907, had '*Vande Mataram*' written in its middle band. The book titled 'Kranti Geetanjali' published by Arya Printing Press (Lahore) and Bharatiya Press (Dehradun) in 1929 contains first two stanzas of '*Vande Mataram*' on Page 11 as the 'Matra Vandana'. The Ghazal '*Vande Mataram*' composed by Pt. Ram Prasad Bismil is also written on its back, i.e. Page 12. The book written by famous martyr of Kakori Pandit Pt. Bismil was proscribed by the then British Government.
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and religion should not be dragged into such mundane things.

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connotation that could violate the tenets of any religion." Moreover,

in 2002, BBC World Service conducted worldwide poll to choose best

song. Around 7000 songs were selected and the 'Vande Mataram'

from the movie 'Anand Math' was ranked second.

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united, it is duty of the Government to frame a National Policy to

promote-propagate 'Jana Gana Mana' and Vande Mataram. There is

no reason why it should evoke any other sentiment as the both are

decided by Constitution makers.

19.The sentiments expressed in '*Jana Gana Mana*' have been expressed

keeping the State in view. However, sentiments expressed in 'Vande

Mataram' denote the nation's character and style and deserve

similar respect. Sometimes Vande mataram is sung in such

circumstances which are not permissible and can never be

countenanced in law. It is the duty of every Indian to show respect

when *Vandemataram* is played/sung.

20. *Vandemataram* should not be utilized by which the person involved with it directly or indirectly and shall have any commercial benefit. There shall not be dramatization of *Vandemataram* and it must not be included in any variety show because when *Vandemataram* is sung/played, it is imperative on the part of every one present to show due respect and honour. To think of a dramatized exhibition of *Vandemataram* is inconceivable. It shall not be printed on any object and never be displayed in such a manner at such places, which may be disgraceful to its status and tantamount to disrespect.

21. Object of inserting word '*Unity and Integrity of the Nation*' in Preamble was to spell out expressly the ideas of nationalism because institutions have subsided to considerable stresses and strains and vested interests were trying to promote their selfish ends to great detriment of public goods. The object of making 42nd Amendment, was to make explicit what was already provided in the Constitution, but which, in the absence of such emphasis was going to be denigrated by 'vested interests' to promote their selfish ends. Our education system is lopsided; it gives knowledge but no character; it gives power but no wisdom; it gives cleverness but no conscience. This has to change and sooner the better.

22. Every Indian citizen should cherish the noble ideals, which inspired the national struggle for freedom. The battle of freedom was a long one where thousands sacrificed their lives for our freedom. So, it becomes our duty to remember the sacrifices made by our ancestors for the cause of the country. However, what is the most important is to remember, imbibe and follow the ideals, which pervaded our unique struggle. It was a struggle for political freedom as well as for social-economic emancipation of the people and ideals were those of building a just society and a united nation, of freedom, equality, non-violence, brotherhood and world peace.

23. If we remain conscious and committed to the ideals, we will be able to rise above various fissiparous tendencies raising their ugly heads now and then, here and there. Now days, selfish people are using religion, race, caste, sex and place of birth for personal gain, capturing the power, and clearly violating their Fundamental Duties. To neutralize them, government must promote-propagate National Anthem and National Flag. Our Constitution says: Article 51A will make all Citizens of India, such men, who will achieve the noble ideals by striving for excellence while also translating into daily life the Fundamental Duties enshrined in clauses (b) to (i).

24. Article 51A reads: *“It shall be the duty of every citizen (a) to abide by the Constitution and respect its ideals and institutions, the National Flag and the National Anthem; (b) to cherish and follow the noble ideals which inspired our national struggle for freedom; (c) to uphold and protect sovereignty, unity and integrity of India (d) to defend the country and render national service when called upon to do so; (e) to promote harmony and spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women; (f) to value and preserve the rich heritage of composite culture; (g) to protect and improve natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures; (h) to develop the scientific temper, humanism and spirit of inquiry and reform; (i) to safeguard public property and to abjure violence; (j) to strive towards excellence in all spheres of individual and collective activity so that nation constantly rises to higher levels of endeavour and achievement”*. Article 51A regenerates the nation. It commands that *“it shall be the duty of every citizen of India”* but it is an irony that majority of citizens do not know about existence of this Article and much less its provisions.

25. Ideals of the Constitution are summed up in the Preamble: *Justice, social, economic and political; Liberty of thought, expression, belief, faith and worship; Equality of status and of opportunity; and to promote among them all Fraternity assuring the dignity of the individual and the unity and integrity of the nation.* Therefore, in word, deed and thought, every citizen must remember and practice the ideals of the Constitution. Executive, Legislature and Judiciary is the principal institutions of the Constitution. All the institutions fall under these three wings of the State thus it is a duty of every Indian to respect these institutions in letter and spirit. For instance, if a citizen or a body of citizens or a section of the citizens feels that injustice has been done or is being done to him/her or it, recourse must be taken in the Court of Law for justice, as that would be to respect an institution of the Constitution. This aspect of Article 51A of the Constitution and its clause (a) has not only been widely neglected and deliberately disrespected, during the three decades that Article 51A has been on the statute book, but also there has been a growing tendency of seeking redress by “Hoolad”, “Hartal” and “Hinsa” (Hue & Cry, Strike and Violence); thus, committing disrespect to the constitutional institution, particularly the Judiciary.

26. Article 51A(b) provides that *it shall be duty of every citizen to cherish and follow noble ideals, which inspired our national struggle for freedom.* Some noble ideals, which inspired our national struggle for freedom, are: “(i) *to achieve freedom from foreign rule so that people have self-government, which would establish a society where there will be no exploitation of man-by-man, no poverty, no disease, no illiteracy.* (ii) *The above objective can be achieved when citizens have opportunities for all-round development of personality.* (iii) *For all round development of personality, man-making education is required.* (iv) *Such education can be inculcated when precept is coupled with practice, and* (v) *Country is placed above self.*” Ideals envisaged in clause (b) are also the ideals of the Constitution some of which are reflected in other clauses. The promotion and harmony and spirit of common brotherhood amongst all citizens transcending religious linguistic regional or sectional diversities and to renounce practices derogatory to the dignity of women vide clause (e) to value and preserve the rich heritage of our composite culture vide clause (f) to develop scientific temper humanism and spirit of inquiry vide clause (h) to strive towards excellence vide clause (j) are also the noble ideals which inspired our national struggle for freedom.

27.Execution of fundamental duties requires aspiration of citizens rather than enforcement or sanction. When at the formative age of life, such noble ideals are inculcated and hammered upon and practiced daily, aspiration to practice them throughout life will be inevitable; it will become part and parcel of the nature and character of the citizen. Strong foundations of nature and character are laid during formative period (6-14 years), that is when the boys and girls are at school. It is there that personality is developed and moulded. It is there that the man is made. Therefore, in every school, private or public, and in every class, education for all round development of personality should be inculcated. The students of today are the nation builders of tomorrow. As the citizen, so the nation. Article 51A(c) provides that it shall be the duty of every citizen – to uphold and protect sovereignty, unity, integrity of India. It is a pre-eminent national obligation of all citizens of India. In a democratic system of governance, sovereignty lies with people. To defend our sovereignty is our own responsibility. If the freedom and unity of the country are jeopardized, the nation ceases to exist and if there is no nation, who lives? It may be recalled that the values of sovereignty, unity and integrity of the nation are first mentioned in the Preamble.

28. Under Article 19(2) of the Constitution, reasonable restrictions are permitted on of the fundamental right of freedom of speech and expression in the interests of the 'sovereignty, unity and integrity of India.' Fundamental duty enshrined in Article 51A(c) is essentially addressed to those citizens, who belong to the defense forces or responsible for the maintenance of law and order. It can be said that this fundamental duty has been well effectuated. This clause by necessary implication, imposes a fundamental duty on every citizen that he shall not do anything derogatory of upholding or protecting the sovereignty, unity or integrity of India. It is a duty prohibitory in nature addressed to traitors and spies. The whole of Chapter-VI of the Indian Penal Code relating to offences against the State is relevant for protecting the sovereignty and integrity of India. If liberty resides in minds of men-women, the same is true of unity. Any conduct which seeks to destroy or damage unity is punishable under Section 153-A of the Indian Penal Code; imputations and assertions prejudicial to national integration are punishable under Section 153-B of the Indian Penal Code. Statements or reports containing alarming news, which tend to promote enmity, punishable under Section 505 (2) of the Indian Penal Code.

29. It is no longer correct to say that Fundamental Duties enshrined in Article 51A are not enforceable to ensure their implementation and are mere reminder. Fundamental Duties have the element of compulsion regarding compliance. What is needed is to enact suitable legislation wherever necessary to require obedience of the duties by citizens with legal sanction. There is need for inclusive legislation in this area to ensure a faithful and effective execution of the Fundamental Duties. A number of judicial decisions are available towards the enforcement of certain clauses of the Article 51A. Comprehensive legislation is needed for clauses (a), (c), (e), (g) and (i). The remaining clauses, which are exhortation of basic human values, have to be developed amongst citizens through the education system by creating proper and graded curricular input from primary level of education to the higher and professional levels.

30. In **Chandra Bhavan Boarding and Lodging Case (1969) 3 SCC 84**, challenge was laid to a notification fixing minimum rates of wages, the problem posed before the Court was to strike a balance between two propositions: one, should not a worker be paid, by way of minimum wages, an amount which would enable the two ends meet and to survive: and on the other hand, fixing of minimum wages

may result in the industry or the unit being killed taking away its right to exist. The Court held that freedom of trade does not mean freedom to exploit. Nor do the provisions of the Constitution are the barriers to progress. They provide a balance for orderly progress towards the social order contemplated by the Preamble. The Court held: *“It is a fallacy to think that under our Constitution there are only rights and no duties. While rights conferred under Part-III are fundamental, the directives given under Part-IV are fundamental in the governance of the country. We see no conflict on the whole between the provisions contained in Part-III and Part-IV. They are complimentary and supplementary to each other. The provisions of Part-IV enable the legislatures and the Government to impose various duties on the citizens. The provisions therein are deliberately made elastic because the duties to be imposed on the citizens depend on the extent to which the Directive Principles are implemented. The mandate of the Constitution is to build a welfare society in which justice- social, economic and political, shall inform all institutions of our national life. The hopes and aspirations aroused by the Constitution will be belied if the minimum needs of the lowest of our citizens are not met.”*

31. Petitioner respectfully submits that it is not an adverse petition. The matter was thoroughly discussed in Constituent Assembly and our framer wanted equal status to jana gana mana and vandemataram but due to appeasement politics their wish is still a dream.

PRAYERS

Keeping in view the above stated facts, the Hon'ble Court may be pleased to issue appropriate directions to respondents to:

- a) direct and declare that *“the song ‘Vande Mataram’, which had played a historic part in the struggle for Indian freedom, shall be honoured equally with ‘Jana-Gana-Mana’ and shall have equal status with it in spirit of the Statement made by the Constituent Assembly Chairman Hon’ble Dr. Rajendra Prasad with regard to the National Anthem, on 24.01.1950”*. (Appendix)
- b) direct the Centre and State Government to ensure that ‘Jana-Gana-Mana’ and ‘Vandemataram’ is played and sung in all schools and educational institutions on every working day.
- c) direct the Centre to frame guidelines in spirit of the Constituent Assembly Resolution dated 24.01.1950 read with the Judgment passed by the Madras High Court and Supreme Court of India. (Judgments are annexed as Annexure-1 and Annexure-2)

d) pass such other orders as Court deems fit and allow the cost.

New Delhi

Petitioner-in-Person

24.05.2022

(Ashwini Kumar Upadhyay)