

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
PUBLIC INTEREST LITIGATION
WRIT PETITION (CIVIL) NO. ____/2021

IN THE MATTER OF:

1. Internet Freedom Foundation

Through Its Founder-Trustee
Apar Jain
E-215, Block E,
East of Kailash,
New Delhi,
Delhi 110065

.....**PETITIONER**

VERSUS

1. Union of India

Ministry of Home Affairs,
Through its Secretary,
North Block,
New Delhi – 110 001

..... **RESPONDENT No. 1**

2. Ministry of Communications

Department of Telecommunications
Through its Secretary
20, Ashoka Rd,
Sansad Marg Area,
New Delhi,
Delhi 110001

..... **RESPONDENT No. 2**

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TABLE OF ABBREVIATIONS

&	And
AIR	All India Reporter
Anr	Another
Art	Article
Assn.	Association
cl.	Clause
Co.	Company
CONST..	Constitution
Dec	December
EPW	Economic and Political Weekly
Feb	February
FIR	First Information Report
GoI	Government of India
Govt.	Government
IND.	India
Jan	January
Ltd.	Limited
MHA	Ministry of Home Affairs
NCT	National Capital Territory
No	Number
Nov	November
Ors	Others
PIL	Public Interest Litigation
SC	Supreme Court
SCC	Supreme Court Cases
SCR	Supreme Court Reporter

U.P.	Uttar Pradesh
UoI	Union of India
v.	Versus
W.P.	Writ Petition

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STATEMENT OF JURISDICTION

The petitioners have approached the Hon'ble Supreme Court of India to hear and adjudicate over the instant matter under Article 32 of the Constitution of India. The provision under which the petitioners have approached the Hon'ble court is read herein under as follows.

Article 32: Remedies for enforcement of rights conferred by this Part

- (1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed.
- (2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.
- (3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).
- (4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution.

STATEMENT OF FACTS

1. India, also known as largest democracy of the world, is located in the territory of Asia. The agriculture sector employs nearly half of the workforce in the country. The Constitution of India envisages fundamental rights to people (citizen and non-citizen) but the rights are not absolute and are subject to reasonable restrictions.
2. The Central Government of India proposed changes by the means of three legislative reforms in order to revamp the agricultural markets. The three laws namely; *The Farmers (Empowerment and Protection) Agreement on Price Assurance and Farm Services Act, 2020*, *The Farmers Produce Trade and Commerce (Promotion and Facilitation) Act, 2020* and *The Essential Commodities (Amendment) Act, 2020* were duly passed by a majority in both the Houses of the Parliament.
3. The farmers objected to the Ordinances on 6th June, a day after they were tabled. The farmers started the protests in a phased manner. On 5th Nov., a nationwide ‘chakka jam’ was organized by the farmers.
4. On 26th Nov., farmers from Punjab and Haryana faced water cannons, tear gas as the police tried to disperse them from Ambala district. Later, they were allowed to enter the capital for ‘Delhi Chalo’ movement in North-West Delhi. The government, held the first round of talks with representative of farmers but it remained inconclusive on 3rd Dec.
5. The second round of talks remained inconclusive too. The farmer leaders rejected the Union government’s proposal to amend the three contentious laws and decided to intensify their agitation until the laws are repealed. One of the Kisan Unions moved to Supreme Court. The Supreme Court promised to constitute a panel to resolve the deadlock between the government and the farmers.
6. The next round of talks also remained inconclusive. On 11th Jan., the Apex Court agreed to hear petitions challenging the three farm laws. The Court rapped the Centre for its handling of the protest and decided to constitute a committee headed by CJI to resolve the impasse.
7. The implementation of the farm laws was stayed and a four-member committee was setup. The farmers, on the occasion of Republic Day, requested to conduct a tractor rally to which Delhi Police gave assent on 24th Jan.
8. The over two-month-old peaceful farmers’ protests suddenly turned out violent on 26th Jan. The tractor rally got off the designated route, leading to violent clashes between

the farmers and police. Protesting farmers broke barricades, rammed tractors into police vehicles and met with teargas and lathicharge in return.

9. The Central Government through an order by Ministry of Home Affairs (No: 22016/12/2019-CIS-IV) suspended internet services in the areas of Singhu, Ghazipur, Tikri, Mukarba Chowk and Nangloi and their adjoining areas in the NCT of Delhi from 12:00 Hrs. to 23:59 Hrs on January 26, 2021.
10. At the one of national monuments, a section of protesters climbed poles and walls and hoisted their religious flag. The police arrested the violent protestors and farm union leaders and filed FIRs. On 28th Jan., situation escalated at the Capital's border after the neighbouring State district issued ordered protesting farmers to vacate the site by night. By evening, as police in anti-riot gear started spreading out at the site, the protesters camped there and their leaders.
11. On 29thJan, the protest venue faced the brunt of violence from the local hoodlums who turned the site into a soft spot for violence and there followed a series of unfortunate events. The outcome was the arrest of 44 people and another internet suspension by MHA order (No: No. 22016/12/2019-CIS-IV).
12. The suspension got extended by the order dated 31st Jan till 2nd Feb (No: 22016/12/2019-CIS-IV), approved by Union Home Secretary in the exercise of powers conferred under *Section 2(1) of Temporary Suspension of Telecom Services (Public Emergency or Safety Rules, 2017* in the same areas.
13. Since 29thJan, the protest sites have been heavily guarded by police where the entry has been completely blocked. As internet services remain suspended in and around the protest venues and its adjoining areas for the sixth consecutive day, voices of the protestors are being shunned down.
14. There are claims of over 100 farmer protestors including minors who have been missing since 26th January. The internet shutdown in this situation and amidst pandemic is evidently causing disruption of communication and increasing the difficulty of thousands of families.

The petitioners, now, on 2nd February 2021 file a PIL.

ISSUES RAISED

-Issue I-

Whether the petition filed under *Article 32* of Indian Constitution before the Supreme Court is maintainable or not.

-Issue II-

Whether the temporary suspension of internet services under *Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017* of *Telegraph Act, 1885* is valid or not.

SUMMARY OF ARGUMENTS

ISSUE 1

The Petitioner most humbly submits that the present petition shall be admitted in this Court of Law. The said PIL is filed under *Article 32* of Indian Constitution before the Supreme Court is maintainable. The elements of the provision are fulfilled as the petitioner has approached the Supreme Court to safeguard the fundamental rights of the people which are being transgressed by the government by suspending internet access through the impugned orders.

The Petitioners have *Locus Standi* as substantial public interest is involved; the petition does involve larger public interest, gravity and urgency; and the PIL is aimed at redressal of genuine public harm. Further, the Court can verify the credentials of the petitioners, there is no personal gain, private motive or oblique motive behind filing PIL and the petitioners can satisfy the Court regarding the correctness of contents of the petition.

ISSUE 2

The impugned orders dated 26th, 29th, 31st Jan, 2021 are in violation of various Fundamental Rights as provided under the Indian Constitution. The impugned orders are in violation of *Article 14* as an internet shutdown discriminates in access to education between the students of the districts of Singhu, Ghazipur, Tikri, Mukarba Chowk and Nangloi, and their adjoining areas and students in the rest of the country. The impugned orders are in violation of *Article 19(1)(a)* as every citizen has a fundamental right to use the best means of imparting and receiving information under *Article 19(1)(a)*. Internet is the most expeditious and the best means for obtaining updates regarding the pandemic as other mediums of information such as television and newspapers are a one-way source of information and them provide only limited amounts of information. Thus, complete restrictions on the internet directly limit the right of the public to know under *Article 19(1)(a)*.

The impugned orders violate *Article 19(1)(g)* as the GoI issued the “lockdown” guidelines on 24.03.2020 which mandated ‘Work from Home’ as far as possible and complete internet suspension makes it impossible for business in the Information Technology and ITES (IT Enabled Services) sector to operate and conduct trade. The impugned orders are unreasonable as they fail the test of proportionality and necessity. The impugned orders violate *Article 21*

as an internet shutdown for extending more than 6 days hampers the access to medical services and thus deprives the public of their right to health. Further, an internet shutdown denies the people the access to justice as they cannot access these virtual modes of communications and video conferences of various courts and also prevents the public from filing complaints with the relevant judicial bodies due to suspension of internet services. The impugned orders violate *Article 21A* as they deprive the students from getting education by not being able to take part in through an online mode of education.

ARGUMENTS ADVANCED

I. WHETHER THE PETITION FILED UNDER ARTICLE 32 OF INDIAN CONSTITUTION BEFORE THE SUPREME COURT IS MAINTAINABLE OR NOT.

The petitioner hereby humbly submits that the petition filed under *Article 32* of the Indian Constitution is maintainable as, the Public Interest Litigation has been filed with the apprehension of violation of Fundamental Right enshrined under Part III of Indian Constitution.

The petitioner humbly submits that this Court has jurisdiction over the petition under *Article 32* and the reasons are twofold, i.e. (I) That the **Elements of The Provision of Article 32** are fulfilled and (II) the petitioner has **Locus Standi** to file the case.

I.I ELEMENTS OF PROVISION

1. Part III of the Constitution has been engrafted with various fundamental rights. The writers of the Constitution knew well that a mere declaration of such rights hardly ensures their practical existence in political front. This is why, they provided for a guaranteed remedy in case of infringement of such rights.¹
2. *Article 32* of the Indian Constitution, also called as "a very distinguishing feature of the Constitution"² gives the right to individuals to move to the Hon'ble Supreme Court to seek justice when they feel that their or someone else's right has been 'unduly deprived'.
3. As M V Pylee claimed, "the first three sections of the article, taken together, make fundamental rights under the Constitution real and, as such, they form the crowing part of the entire chapter".³
4. The Supreme Court observed, "It is our privilege and duty to see that rights which are intended to be fundamental are kept fundamental..." So, the Supreme Court has to intervene when- ever a fundamental right has been transgressed upon.⁴
5. In the **present case**, the petitioner has approached the Supreme Court to safeguard the fundamental rights of the people which are being transgressed by the government through suspending internet access in and around areas of Singhu, Ghazipur, Tikri, Mukarba Chowk and Nangloi in the NCT of Delhi on 26th Jan [Order No:

¹DR. ANUP CHAND KAPUR, THE INDIAN POLITICAL SYSTEM 143 (S. Chand) (2010).

²B P GAJENDRAGADKAR, CONSTITUTION OF INDIA 60-62 (1970).

³M V PYLEE, CONSTITUTIONAL GOVERNMENT IN INDIA 60-62 (2003).

⁴Ram Singh v. The State of Delhi & Ors (1951) AIR 270, 1951 SCR 451.

22016/12/2019-CIS-IV (**Annexure A**), 29th Jan [Order No: 22016/12/2019-CIS-IV (**Annexure B**)] and again on 31st Jan which has been extended till 2nd Feb [Order No: 22016/12/2019-CIS-IV (**Annexure C**)]. By repetitive suspension of rightful internet access, the government has infringed *Article 14, 19(1)(a), 19(1)(g), 21 and even 21(a)*.

6. Every law or act must conform to the fundamental rights as enshrined in the Constitution. It has been pointed out that the concept of 'judicial review' has been introduced in our Constitution by which the Supreme Court can examine the constitutional validity or otherwise of a legislative act or an **executive order**.⁵
7. In case an executive order or legislative enactment violates any of the fundamental rights, the Supreme Court can, under *Article 13(2)*, declare it unconstitutional and void.⁶ The Courts as the judicial sentinel of fundamental rights, they are equipped with some constitutional weapons, known as 'writs', for the enforcement of such rights. As rights without remedy is a meaningless formality.

I.II LOCUS STANDI

8. Black's Law Dictionary defines 'Public Interest Litigation' as a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected.⁷
9. The Supreme Court entertains matters in which interest of the public at large is involved either by filing a Writ Petition or by addressing a letter to Hon'ble the Chief Justice of India highlighting the question of public importance for invoking this jurisdiction.⁸
10. The foundations of public interest litigation were laid in the late 1970s with cases like the *Ratlam Municipalities case*⁹.¹⁰ Expanding the right of 'right to be heard' the SC has held that in social or public interest actions, any person may move the Court.
11. In the case of *Sheela Barse v. State of Maharashtra*¹¹, a letter written by a journalist addressed to the Supreme Court was considered as an entertainable petition. In the

⁵W H MORRIS-JONES, THE GOVERNMENT AND POLITICS IN INDIA 4 (1971).

⁶V.G. Row v. The State of Madras (1952) AIR 196, 1952 SCR 597.

⁷BRYAN A. GARNER, BLACK'S LAW DICTIONARY 2051 (6th Ed 2015).

⁸JURISDICTION OF THE SUPREME COURT, main.sci.gov.in/jurisdiction.

⁹Municipal Council, Ratlam v. Shri Vardhichand&Ors (1980) AIR 1622, 1981 SCR (1) 97.

¹⁰Prashant Bhushan, *Supreme Court and PIL: Changing Perspectives under Liberalisation*, EPW, May 1, 2004, at 1770.

case of *D.C.Wadhwa v. State of Bihar*¹² a political science prof. challenged the practice followed by the State of Bihar. The court held that the petitioner as a member of public has 'sufficient interest' to maintain a petition under *Article 32*.

12. The SC in *State of Uttaranchal v. Balwant Singh Chaufal*¹³ laid down guidelines relating to PIL. The petitioner would like to hereby submit that the present PIL deserves to be admitted on grounds that;

- a. The goal of the petitioner is to ensure that Indian citizens can use the Internet with liberties guaranteed by the Constitution and has been trying to fulfil its objectives from past 5 years. Further, if not satisfied, the Court can **verify the credentials of the petitioners**.
- b. To satisfy the Court regarding the **correctness of contents of the petition**, the petitioner would like to reiterate the facts and submit that the events are ongoing.
- c. A **substantial public interest is involved** before entertaining the petition as the petitioner is an NGO working for the benefit of the people and does not have any ulterior or mala fide intentions.
- d. The **petition does involve larger public interest, gravity and urgency** must be given priority over other petitions as the order issued by the government is transgressing several fundamental rights of numerous citizen and non-citizen both.
- e. The events of petition make it evident that that PIL is **aimed at redressal of genuine public harm** or public injury.
- f. The petitioner is an NGO focusing on free speech, digital surveillance and privacy, net neutrality and is known for its unbiased research and awareness. Therefore, substantiates the fact that there is **no personal gain, private motive or oblique motive** behind filing PIL.

13. Putting the abovementioned submissions together, the petitioner has the *locus standi* to file the petition.

Therefore, the petitioners humbly and most respectfully submits that the present petition needs to be taken account for and submitted, but if delayed or denied it would lead to gross miscarriage of justice.

¹¹Sheela Barse v. State of Maharashtra (1983) AIR 378, 1983 SCR (2) 337.

¹²D.C.Wadhwa v. State of Bihar (1987) AIR 579, 1987 SCR (1) 798.

¹³State of Uttaranchal v. Balwant Singh Chaufal And Ors (2002) 3 SCC 402.

II. WHETHER THE TEMPORARY SUSPENSION OF INTERNET SERVICES UNDER TEMPORARY SUSPENSION OF TELECOM SERVICES (PUBLIC EMERGENCY OR PUBLIC SAFETY) RULES, 2017 OF TELEGRAPH ACT, 1885 IS VALID OR NOT.

It is humbly submitted by the petitioner that the impugned orders dated 26th Jan, 2021 [Order No: 22016/12/2019-CIS-IV (**Annexure A**)], 29th Jan 2021 [Order No: 22016/12/2019-CIS-IV (**Annexure B**)] 31st Jan, 2021 [Order No: 22016/12/2019-CIS-IV (**Annexure C**)] are in violation of *Article 14*, *Article 19(1)(a)*, *Article(19)(1)(g)*, *Article 21*, and *Article 21A* of the Indian Constitution.

I. VIOLATION OF ARTICLE 14

*Article 14*¹⁴ of the ensures equality among equals, its aim is to protect persons similarly placed against discrimination treatment.¹⁵

14. The SC ruled that, “the Citizen’s inability to access courts or any other adjudicatory mechanism provided for determination of rights and obligations is bound to result in denial of the guarantee contained in *Article 14* both in relation to equality before law as well as equal protection of laws.”¹⁶

15. Moreover, the internet shutdown also results in a discrimination in access to education between the students of the districts of Singhu, Ghazipur, Tikri, Mukarba Chowk and Nangloi, and their adjoining areas and students in the rest of the country and thus is a violation of Art.14.

II. VIOLATION OF ARTICLE 19

Article 19(1) gives every citizen the right to (A)Freedom of Speech and Expression¹⁷ and(B) Right to practise any profession, or to carry on any occupation, trade or business¹⁸. The internet shutdown imposed by the impugned orders violates both.

A. FREEDOM OF SPEECH & EXPRESSION: *Article 19(1)(a)*

16. *Article 19(1)(a)* has been consistently interpreted to include the public's right to know, obtain, and impart information in order to make an informed decision with respect to

¹⁴ IND. CONST., art 19.

¹⁵ Western U.P. Electric Power & Supply Co. Ltd. v. State of U.P. (1969) 1 SCC 817.

¹⁶ Anita Kushwaha v. Pushap Sudan (2016) 8 SCC 509.

¹⁷ IND. CONST., art. 19 cl. 1(a).

¹⁸ IND. CONST., art. 19 cl. 1(g).

issues that affect society.¹⁹ A citizen has a fundamental right to use the **best means** of imparting and receiving information.²⁰

17. In the landmark case of *Anuradha Bhasin v. Union of India*²¹, the Apex Court held that internet is one of the major means of dissemination of information and “the freedom of speech and expression through the medium of internet is an integral part of *Article 19(1)(a)* and accordingly, any restriction on the same must be in accordance with *Article 19(2)*²² of the Constitution.”

18. It is thus humbly submitted that Internet is the most expeditious and the **best means** through with updates regarding the pandemic which enables persons to self-isolate, and to keeping touch with one and another, healthcare advisories such as symptom tracking and advisories against taking certain medicines can be disseminated to the masses. Complete restrictions on the internet directly limits the **right of the public to know**.

19. Other mediums of information such as television and newspapers are a one-way source of information and their services are limited by the amount of information. Internet is a source of unlimited information and this information can be provided to a person in need as and when required. Further, TV news channels, while suitable for national updates are unable to provide localised updates about various services. Information is more effectively transmitted through easily accessible videos and photographs and further more effectively understood by nuanced searches about a desired piece of information on the internet.

B. FREEDOM OF TRADE AND PROFESSION: *Article 19(1)(g)*

20. The SC has declared that the right to carry on any trade or business under *19(1)(g)*, using the medium of internet is constitutionally protected. “Internet is also a very important tool for trade and commerce. The globalization of the Indian economy and the rapid advances in information and technology have opened up vast business avenues and transformed India as a global IT hub”.²³

21. It is humbly submitted that the GoI has recognized the **right to internet connectivity as an essential service** of necessity. The “lockdown” guidelines passed by The Ministry of Home Affairs [Order No. 40-3/2020-DM-I(A)] dated 24.03.2020 under

¹⁹ Ministry of Information and Broadcasting, Govt. of India v. Cricket Assn. of Bengal (1995) AIR 1236 1995 SCC (2) 161.

²⁰ *Id.*

²¹ *Anuradha Bhasin v. Union of India* (2020) SCC Online SC 25.

²² IND. CONST., art. 19 cl. 2.

²³ *Supra*, note 20.

the *Disaster Management Act*, expressly excluded “telecommunications, internet services, broadcasting and cable services.”. Further, even the *National Telecom Policy 2012* recognizes the right to broadband connectivity as a “basic necessity like education and health.”

22. It is humbly submitted that the GoI issued the “lockdown” guidelines on 24.03.2020 which mandated ‘Work From Home’ as far as possible. A complete internet suspension makes it impossible for business in the Information Technology and ITES (IT Enabled Services) sector to operate and conduct trade and thus violates the fundamental right of freedom of trade and profession as provided under *Article 19(1)(g)*.

C. UNREASONABLENESS OF RESTRICTIONS

23. Restrictions upon rights provided under *Art. 19(1)* can be imposed on various grounds mentioned from *Art. 19(2)* to *Art. 19(6)* of the Constitution. However, the Supreme Court has categorically held in multiple landmark judgements that the restrictions imposed on the rights conferred under *Art. 19(1)* should be “Reasonable”²⁴. The SC has laid down certain tests to determine the permissibility of a constitutional restriction in the case of *Modern Dental College & Research Centre v. State of Madhya Pradesh*²⁵. It was laid down by the Supreme court that

“a limitation of a constitutional right will be constitutionally permissible if:

(i) it is designated for a proper purpose;

(ii) the measures undertaken to effectuate such a limitation are rationally connected to the fulfilment of that purpose;

(iii) the measures undertaken are necessary in that there are no alternative measures that may similarly achieve that same purpose with a lesser degree of limitation; and finally

(iv) there needs to be a proper relation (“proportionality stricto sensu” or “balancing”) between the importance of achieving the proper purpose and the social importance of preventing the limitation on the constitutional right”

24. It was further held by the SC in the same case that;

“the expression “reasonable restriction” seeks to strike a balance between the freedom guaranteed by any of the sub-clauses of clause (1) of Article 19 and the

²⁴ Chintaman Rao v. State of Madhya Pradesh, AIR 1951 SC 118.

²⁵ Modern Dental College & Research Centre v. State of Madhya Pradesh, (2016) 7 SCC 353.

social control permitted by any of the clauses (2) to (6). It is held that the expression “reasonable” connotes that the limitation imposed on a person in the enjoyment of the right should not be arbitrary or of an excessive nature beyond what is required in the interests of public. Further, in order to be reasonable, the restriction must have a reasonable relation to the object which the legislation seeks to achieve, and must not go in excess of that object”

25. It is humbly submitted that the government orders of 26th, 29th and 31st Jan, 2021 which suspended internet access mentions that the restrictions were required for maintaining public safety and averting public emergency. However, apart from simply stating the reasons for restrictions, the order fails to provide any justification as to how the suspension of internet services would achieve the said purpose of maintaining public safety and averting public emergency. The Orders thus fail the test of proportionality on the following grounds: -

- a. The restrictions on internet do not bear a **rational relationship with the object** of maintaining public safety and averting public emergency as it is possible for persons who are responsible for such activities to engage in basic communication with each another using other means of communications like telecommunication services using a telephone.
- b. The measure fails the necessity test as since 29th Jan 2021, the protest sites have been heavily guarded by police where the entry has been completely blocked, the roads (public property) have been dug up, barricading has been increased to four layers on the main highway connecting Delhi with Haryana and there was heavy deployment of paramilitary forces²⁶. Thus, with such stringent precautionary and safety measure been taken, the suspension of internet services was not necessary to maintain public safety and avert public emergency.

26. It is thus humbly submitted that the restrictions imposed by the impugned orders are not reasonable and hence are in violation of *Art. 19* of the Constitution.

III. VIOLATION OF ARTICLE 21

*Article 21*²⁷ states that “No person shall be deprived of his life or personal liberty except according to procedure established by law”. The internet shutdown through the impugned

²⁶ Karn Pratap Singh, *Police cut off Singhu border from Capital*, THE HINDUSTAN TIMES (Feb. 01, 2021), <https://www.hindustantimes.com/india-news/police-cut-off-singhu-border-from-capital-101612125355962.html>.

²⁷ IND. CONST., art. 21.

orders violates *Art. 21* of the constitution by depriving the people from (A) Right to health and (B) Right of Access to Justice.

A. RIGHT TO HEALTH

27. The **Right to Health** was interpreted to be an integral part of Right to Life and Liberty in the *Bandhua Mukti Morcha vs Union of India & Others*²⁸, it was held that, “This right to live with human dignity enshrined in *Art. 21* derives its life breath from the DPSP and particularly clauses (e) and (f) of *Art. 39* and *Art. 41* and *42* and at the least, therefore, it must include protection of the health.”

28. The term 'health' implies more than an absence of sickness, health is thus a state of complete physical, mental and social wellbeing and not merely the absence of disease or infirmity²⁹. In *Vincent Panikurlangara v. UoI*³⁰, the SC while highlighting the importance of health stated that “A healthy body is the very foundation for all human activities”.

29. The advent of COVID-19 has made access to essential medical services of utmost importance. The dismal state of affairs can be observed from the fact that between 26th Jan-3rdFeb, more than 1,000 people were tested positive and thus required medical assistance of various sort.³¹

30. It is humbly submitted that, in such a precarious situation, access to medical services have become dependent upon the internet services, to provide relevant updates regarding COVID testing centres, location of relief shelters, telemedicine and tele consultancy services, etc. An internet shutdown for extending more than 6 days hampers the access to such essential medical services and thus deprives the public of their right to health and hence violates *Article 21*.

B. RIGHT OF ACCESS TO JUSTICE

The Right of Access to Justice has been interpreted to be an integral part of Right to Life and Liberty.

31. In the case of *Anita Kushwaha v. Pushpa Sudan*³², it was held that “If ‘life’ implies not only life in the physical sense but a bundle of rights that makes life worth living, there is no juristic or other basis for holding that denial of ‘access to justice’ will not

²⁸ *Bandhua Mukti Morcha v. Union Of India & Others* (1984) AIR 802, 1984 SCR (2) 67.

²⁹ *CESC Ltd. v. Subhash Chandra Bose* (1992) AIR 573, 1991 SCR Supl. (2) 267.

³⁰ *Vincent Panikurlangara v. Union of India*, 1987 AIR 990.

³¹ JHU CSSE COVID-19 PROJECT, JOHN HOPKINS UNIVERSITY (2021), <https://systems.jhu.edu/research/public-health/ncov/>.

³² *Supra*, note 15.

affect the quality of human life so as to take access to justice out of the purview of right to life guaranteed under *Article 21*. We have, therefore, no hesitation in holding that access to justice is indeed a facet of right to life guaranteed under *Art. 21* of the Constitution”

- 32.** Through the Circular dated [(No: /VC/RHC/Comp./Delhi/2021) (**Annexure D**)] 24.02.2021 by Office of the Principal District & Session Judge, guidelines to use video conference as the medium for hearing cases were issued. There are claims of over 100 farmer protestors including minors who have been missing since 26th Jan as reported by various newspapers.³³ There have been Habeas Corpus Petitions filed and the matter is sub judice before the Hon’ble Delhi High Court. Further the Delhi High Court has also issued guidelines for virtual hearing of cases through a notice [Order No: 01/RG/DHC/2021 (**Annexure E**)]
- 33.** Additionally, multiple judicial bodies also have facilities regarding filing of E-Complaints for the people like, E-complaints facilities by Consumer Forums, National and State Human Rights Commissions, Zero FIRs, Complaints regarding Cyber Crimes, E-filing of RTIs, etc.
- 34.** It is humbly submitted that an internet shutdown denies the people the access to justice as they cannot access these virtual modes of communications and video conferences of various courts thus also denying a right to speedy justice. Further, various aggrieved people can also not file their complaints with the relevant judicial bodies due to suspension of internet services thus depriving the public of the right to access to justice and violating Article 21 of the Constitution.

IV. VIOLATION OF ARTICLE 21A

- 35.** *Article 21A* ³⁴ of the Constitution deals with the Right to Education and states that “The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.” More generally, Right to Education is guaranteed as a subset of Right to Life under *Art. 21*.
- 36.** Due to the prevailing coronavirus pandemic, educational institutions all across the nation have ceased to operate through the traditional mode and have adopted online modes of education involving education through video-conferencing on platforms. In

³³ *Over 100 Punjab farmers ‘missing’ since Republic Day rally*, THE TRIBUNE (Jan. 30, 2021), <https://www.tribuneindia.com/news/punjab/over-100-punjab-farmers-missing-since-r-day-rally-205321>

³⁴ IND. CONST. art. 21A

*Faheema Shirin v. State of Kerala*³⁵, the High Court of Kerala held that “right to have access to Internet becomes the part of right to education as well as right to privacy under *Article 21* of the Constitution of India.”

37. It is humbly submitted that in such an adverse situation where the internet has become a necessity for children to receive education and the impugned order deprives the students from getting access to it and thus violates the right to education under *Art. 21A*.

Therefore, the petitioner concludes that the abovementioned Orders are in violation of *Article 14, Article 19(1)(a), Article(19)(1)(g), Article 21, and Article 21A* of the Indian Constitution.

³⁵ *Faheema Shirin R.K. & Ors. v. State of Kerala & Ors*, WP (C) No. 19716 of 2019 (L).

PRAYER

Wherefore in the light of issues raised, arguments advanced and authorities cited, the Petitioner respectfully requests this Hon'ble Court to adjudge and be pleased to:

- a. Issue a Writ of Declaration and Mandamus or any other appropriate Writ, Direction, Order or such other appropriate remedy to declare the Order issued by Respondent No. 1, (No: 22016/12/2019-CIS-IV) and (No: 22016/12/2019-CIS-IV) suspended internet services in the areas of Singhu, Ghazipur, Tikri, Mukarba Chowk and Nangloi and their adjoining areas in the NCT of Delhi, as being illegal, unconstitutional, violative of *Articles 14, 19(1), 21, and 21A* of the Constitution of India and thus, void, and/or,
- b. Issue an order or direction directing Respondent No. 1 and 2 to restore the internet access in the areas of Singhu, Ghazipur, Tikri, Mukarba Chowk and Nangloi and their adjoining areas in the NCT of Delhi and quash the Order dated 31st January (No: 22016/12/2019-CIS-IV) 2021 which has been extended till 2nd February 2021.
- c. Pass such other orders as may be deemed fit in the facts and circumstances of this case.

All of which is respectfully submitted

FOR THIS ACT OF KINDNESS, THE PETITIONER SHALL DUTY BOUND
FOREVER PRAY.

On behalf of the Petitioner

Counsel for Petitioner

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