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**BEFORE THE HON'BLE
SUPREME COURT OF INDIA**

**Original Writ Jurisdiction
PUBLIC INTEREST LITIGATION**

W. P. (CIVIL) NO. _____ OF 2021

UNDER ART 32 OF THE CONSTITUTION OF INDIA

WE CARE FOR INDIA (NGO).....PETITIONER

Vs.

UNION OF INDIA AND ANR.....RESPONDENTS

UPON SUBMISSION TO THE HON'BLE CHIEF JUSTICE OF INDIA AND
HIS COMPANION JUSTICES OF THE SUPREME COURT OF INDIA

MEMORANDUM ON BEHALF OF THE PETITIONER

TABLE OF CONTENTS

TABLE OF CONTENTS.....	2
TABLE OF ABBREVIATIONS.....	3
INDEX OF AUTHORITIES	4
STATEMENT OF JURISDICTION.....	6
FACTS OF THE CASE.....	7
ISSUES RAISED	10
SUMMARY OF ARGUMENTS	11
ARGUMENTS ADVANCED	12
THAT THE WRIT PETITION FILED UNDER ART. 32 OF THE CONSTITUTION OF INDIA IS MAINTAINABLE	12
PETITIONER HAS LOCUS STANDI IN THE INSTANT CASE	12
BASIC STRUCTURE OF THE CONSTITUTION HAS BEEN VIOLATED.	12
PETITION IS SOLELY FOR THE PURPOSE OF PUBLIC INTEREST	13
THAT SUSPENSION OF INTERNET SERVICES IS ARBITRARY IN NATURE, UNREASONABLE AND IN	
VIOLATION OF THE FREEDOM OF SPEECH AND EXPRESSION GUARANTEED BY THE CONSTITUTION ...	13
SHUTDOWN OF INTERNET SERVICES ON BOTH MOBILE AND BROADBAND IS A RESTRICTION ON THE	
FREEDOM OF RIGHT TO ACCESS INTERNET	14
FREEDOM OF SPEECH AND EXPRESSION CAN ONLY BE LIMITED BY THE MEANS OF REASONABLE	
RESTRICTIONS	15
PRAYER	21

TABLE OF ABBREVIATIONS

&	And
AIR	All India Reporter
Anr	Another
Art.	Article
CAA	Citizenship Amendment Act
CrPC	Code of Criminal Procedure
Dec	December
Hon'ble	Honorable
J & K	J&K
NRC	National Register of Citizens
Ors.	Others
SC	Supreme Court
SCC	Supreme Court Cases
SCR	Supreme Court Reports
Sec.	Section
UOI	Union of India
UP	Uttar Pradesh
v.	Versus
WLR	Weekly Law Reports

INDEX OF AUTHORITIES

CASES REFERED

1.	Anuradha Bhasin v Union of India & Ors	(2020) 3 SCC 637
2	Chintaman Rao v. State of Madhya Pradesh	AIR 1951 SC 118
3	Foundation for Media Professionals v. Union Territory of Jammu and Kashmir and Anr.	(2020) 5 SCC 746
4	Ghulam Nabi Azad v Union of India & Anr,	W.P(C). No 1164 of 2019
5	Indian legal and Economic forum v. U.O.I	(1997) 10 SCC 728
6	Indibily Creative Pvt. Ltd. vs Govt. Of West,	W. P(C). No 306 of 2019
7	I.R Colho v. State of Tamil Nadu	(1998) 7 SCC 550
8	Kesavananda Bharati v. State of Kerala	(1973) 4 SCC 225
9	Life Insurance Corporation of India v. Prof. Manubhai D. Shah	(1992) 3 SCC 637
10	Ministry of Information and Broadcasting, Govt. of India v. Cricket Assn. of Bengal	(1995) 2 SCC 161
11	Mohd. Faruk v. State of Madhya Pradesh & Ors	(1970) 1 SCR 156
12	Rabindra Nath Bose and ors. v. UOI & ors.	AIR 1970 SC 470
13	Ramlila Maidan Incident Vs. Home Secretary, Union of India (UOI) and Ors	W.P. (CRL.) NO. 122 OF 2011
14	R. v. Diary Produce Quota Tribunal	(1990) 2 AII ER 434
15	S.A. Kini v. Union of India	AIR 1985 SC 893
16	Satish Chandra v. Union of India	AIR 1953 SC 250
17	S. Rangarajan Etc vs P. Jagjivan Ram	1989 SCR (2) 204
18	S.R Bommai v. Union of India	(1994) 3 SCC 2
19	Vishakha & ors. V. State of Rajasthan & Ors.	AIR 1997 SC 3011
20	Waman Rao v. Union of India	(1981) 2 SCC 362

LEGISLATIONS REFERED

1.	International Covenant on Civil and Political Rights, 1976
2.	The Constitution of India, 1950

BOOKS AND LEXICON REFERED

1.	M.K Mallick, Law and Practice, 47 (12th ed., 2012)
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WEBSITES REFERED

1.	Manupatra Online Resources, http://www.manupatra.com .
2.	Lexis Nexis Academica, http://www.lexisnexis.com/academica .
3.	Lexis Nexis Legal, http://www.lexisnexis.com/in/legal
4.	SCC Online, http://www.sconline.co.in .

STATEMENT OF JURISDICTION

THE PETITIONER HUMBLY SUBMITS TO THE JURISDICTION OF THIS HON'BLE COURT UNDER ART 32 OF THE CONSTITUTION.

Article 32 read as-

“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”

FACTS OF THE CASE

1. The Citizenship (Amendment) Act, 2019 was passed by the Lok Sabha on November 9, 2019, and the Rajya Sabha on Dec 11, 2019. The President gave his approval and signed the bill on Dec 12, 2019. This deed of the parliament has been heavily chastised in the media by the student fraternity, the legal fraternity, the social media activists and other public-spirited individuals. It also received huge criticism around the world from foreign organizations such as the United Nations and other international bodies. In the aftermath, there have been tumultuous and violent demonstrations in different parts of the country in response to the act. In light of the foregoing circumstances, Section 144 of the Criminal Procedure Code was enacted in several parts and corners of the nation, resulting in the suspension of Internet and communication services.
2. When the Indian Parliament abrogated Art. 370 of the Constitution on August 4, 2019, the internet was shut down in the state. The Union Territories of J&K and Ladakh were formed from the state of J&K. As a beginning to the communication blockade, landlines and mobile networks were both restricted; the ban on landlines was lifted a few while later, but the suspension of mobile internet in the valley still continued. The current Internet and Communication Blockade in the Union Territories of J&K happens to be the longest internet blackout in the entire world. Similarly, the Kargil District of Ladakh had to go through an internet shutdown of 145 days imposed on the erstwhile State of J&K starting from August 4, 2019. As a precautionary measure following the repeal of Art. 370, the shutdown was accompanied by the suspension of all landline, telephone, and SMS communication. It was lifted in the district on Dec 27, 2019. In 2016, the state of J&K experienced an internet blackout for more than 100 days as a result of the unrest sparked by the assassination of Burhan Wani on July 8, 2016. Mobile Internet Services were turned off for a period of 133 days. On November 19, 2016, mobile Internet services on postpaid numbers were restored. Prepaid users' access to the Internet was restored in January 2017.
3. Darjeeling experienced the third-longest Internet service outage. Due to the ongoing protests for a separate Gorkhaland, an order suspending Internet services was issued on June 18, 2017. The order was extended to broadband networks two days later, on June

20, 2017, potentially shutting down the entire Internet. As a sum of various such extension orders, Internet services in Darjeeling were suspended for about 100 days.

4. It is ultra vires for a police officer to shut down the internet and for a ban on internet services to be imposed under Sec. 144 of the CrPC. Starting at midnight on November 8, 2019, internet services in Aligarh were shut down for 24 hours. The ban was placed on the orders of the Aligarh District Magistrate, rather than the Home Secretary of Uttar Pradesh, as prescribed by the Telegraph Act, 1885's Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules, 2017.
5. On the 11th of Dec, 2019, internet services in the state of Assam were disrupted due to widespread protests against the Citizenship Amendment Bill's passage. Lakhimpur, Dhemaji, Tinsukia, Dibrugarh, Charaideo, Sivasagar, Jorhat, Golaghat, Kamrup, and Kamrup Metro were among the districts affected. The internet blackout was ordered for 48 hours at first, but was then extended for another 48 hours until Dec 14. However, on the order of the Hon'ble Gauhati High Court, mobile internet services were only restored on Dec 20, 2019, following a 10-day suspension (High Court of Assam, Nagaland, Mizoram and Arunachal Pradesh). On the 12.12.2019, internet services in the entire state of Meghalaya were disrupted for 48 hours due to protests against the CAA. As a result of protests against the then Citizenship Amendment Bill, 2019, Internet services in the state of Tripura were shut down for 48 hours on Dec 10, 2019, and were then extended for another 24 hours on Dec 12, 2019.
6. During anti-Citizenship Amendment Act and National Register of Citizens protests, communication services such as voice, sms, and internet were suspended in five sections of the capital city New Delhi on Dec 19, 2019, including Walled areas of the North and Central Districts, Mandi House, Bawana, Jamia Nagar, and Shaeen Bagh, Mustafabad, Saleempur, and Jaffarabad. On the 19.12.2019, the State of UP enacted Sec. 144 of the CrPC, which resulted in the suspension of Internet and cell phone communication services in 18 districts of UP from the 20.12.2019 to the 21.12.2019, and the services were suspended once again on the 26.12.2019. During the protests against anti-CAA and NRC in Western UP, suspensions were ordered for varying lengths of time across these districts, with some districts not having internet services restored until the 28th of Dec 2019.

7. The Government of India had prohibited/suspended the access of internet facility at the borders, where the farmers are protesting, which is sheer violation to the fundamental rights of a citizen. The internet shutdown at the protest sites was approved by Union Home Secretary and passed by Deputy Secretary, Ministry of Home Affairs, in the exercise of powers conferred under Section 2(1) of Temporary Suspension of Telecom Services (Public Emergency or Safety Rules, 2017 which states: 'in interest of maintaining Public Safety and averting public emergency, it is necessary and expedient to order, the temporary suspension of Internet Services in the Areas of Singhu Border, Ghazipur etc.
8. India has the world's highest number of internet outages. About 19 Indian states experienced 172 shutdowns between January 2012 and April 2018. According to "Living in Digital Darkness," a Handbook on Internet Shutdown in India study, which recorded more than 100 instances of Internet Shutdown in 2019, the duration of the shutdown ranged from less than 24 hours to more than 72 hours, and the mode of restriction included restrictions on mobile and fixed line both modes of connecting to Internet services.
9. India has the world's second-largest Internet user population, with 665.31 million internet subscribers at the end of June 2019, with 21.67 million Wired Internet subscribers and 643.64 million Wireless Internet subscribers. According to the Telecom Regulatory Authority of India's Indian Telecom Services Performance Indicators April – June 2019, 96.66 percent of internet subscribers in India use mobile devices to access internet services.
10. According to a study by the Centre for Technology Innovation, India's projected costs of internet shutdown from July 1, 2015 to June 30, 2016 is \$968,080,702. When compared to the 18 countries that shut down their internet during the same time span, India suffered the most losses. According to a report by the Indian Council for Research on International Economic Relations, India lost 3044 (USD Million) between 2012 and 2017, with the 2015 internet shutdown in Gujarat hurting the economy and costing it 1129 (USD Million). According to a Deloitte study titled "the economic effect of disruptions to Internet connectivity," a country with medium Internet connectivity will lose \$ 6.6 million in GDP per 10 million people per day.

ISSUES RAISED

ISSUE 1:

WHETHER THE WRIT PETITION FILED UNDER ART. 32 OF THE CONSTITUTION OF INDIA IS MAINTAINABLE

ISSUE 2:

WHETHER THE SUSPENSION OF INTERNET SERVICES IS ARBITRARY IN NATURE, UNREASONABLE AND IN VIOLATION OF THE FREEDOM OF SPEECH AND EXPRESSION GUARANTEED BY THE CONSTITUTION OF INDIA

SUMMARY OF ARGUMENTS

CONTENTION 1: THAT THE WRIT PETITION FILED UNDER ART. 32 OF THE CONSTITUTION OF INDIA IS MAINTAINABLE

In the present case, there have been gross violations of fundamental rights viz. Art. 19 & 21 of Constitution of India. The impugned rule is arbitrary and against the principles of natural justice. Henceforth the Hon.,ble SC of India has the power to entertain proceedings for the enforcement of fundamental rights.

CONTENTION 2: THAT SUSPENSION OF INTERNET SERVICES IS ARBITRARY IN NATURE, UNREASONABLE AND IN VIOLATION OF THE FREEDOM OF SPEECH AND EXPRESSION GUARANTEED BY THE CONSTITUTION OF INDIA

The Internet Shutdown itself is unconstitutional in nature and violates Fundamental rights as enshrined under Article 19 & 21. Cause of Action of the present petition is that Internet shutdown by the government and its instrumentalities across various parts of the country violates Fundamental rights guaranteed under Article 19 & 21.

ARGUMENTS ADVANCED

THAT THE WRIT PETITION FILED UNDER ART. 32 OF THE CONSTITUTION OF INDIA IS MAINTAINABLE

1. The Petitioner files the instant petition under Art. 32¹ in the Hon'ble Supreme Court.

PETITIONER HAS LOCUS STANDI IN THE INSTANT CASE.

2. It is humbly submitted that maintainability of writ petition for enforcement of fundamental rights can be questioned only on the ground of laches², delays and acquiescence³, drafting of petition in an undignified manner,⁴ malicious in nature,⁵ where disputed question of facts are involved or question of law has been raised in the abstract⁶ or enforcement of private or contractual rights are sought to be enforced⁷. In the instant case, none of the aforementioned exception exists. The petition has been filed in time, question of facts are involved and fundamental rights are sought to be enforced. Various instances of internet shutdowns across the country are contrary to the rights of people under Art. 19 and 21 of the constitution. Therefore, the Hon'ble Supreme court is competent to decide the legality of the action under Art. 32.

BASIC STRUCTURE OF THE CONSTITUTION HAS BEEN VIOLATED.

3. It is submitted that Part III of the Constitution which deals with "Fundamental rights" is regarded as the basic structure of the Constitution⁸. The doctrine of basic structure not only applies against the amendments under the exercise of constituent power⁹ but also

¹ Art. 32, the Constitution of India, 1950.

² Rabindra Nath Bose and others v. Union of India and others, AIR 1970 SC 470.

³ R. v. Diary Produce Quota Tribunal (1990) 2 AII ER 434 : (1990) 2 WLR 1302.

⁴ M.K Mallick, Law and Practice, 47 (12th ed., 2012).

⁵ S.A. Kini v. Union of India, AIR 1985 SC 893 : (1985) 3 SCR 754 : 1985 Supp. SCC 122(¶ 4) ; R.V. Customs and Excise Commissioner ex parte Cooke and Stevenson, 1 AII ER 1068 (1970, Queen Bench Division, Divisional Court).

⁶ Indian legal and Economic forum v. U.O.I (1997) 10 SCC 728

⁷ Satish Chandra v. Union of India, AIR 1953 SC 250.

⁸ I.R Colho v. State of Tamil Nadu, (1998) 7 SCC 550.

⁹ Kesavananda Bharati v. State of Kerala, (1973) 4 SCC 225; Smt. Indira Nehru Gandhi v. Raj Narain, 1975 Supp. SCC 1.

against exercise of legislative¹⁰ and executive power¹¹. Therefore, the said rule is within the ambit of application of basic structure.

PETITION IS SOLELY FOR THE PURPOSE OF PUBLIC INTEREST

4. The Petitioner has no personal interest in the litigation and is not guided by self-gain or for gain of any other person/institution/body and that there is no motive other than public interest and is bringing the instant issue to the attention of this Hon'ble Court in the wider interest of people at large, that is, in bona fide public interest as facility of internet is an integral part of Constitution of India under Art. 19. The Petitioner has not been involved in any other civil or criminal or revenue litigation, which could have legal nexus with the issues involved in the present Petition. No other petition arising out of the same cause of action has been filed by the Petitioner before this Hon'ble court or any other court.

THAT SUSPENSION OF INTERNET SERVICES IS ARBITRARY IN NATURE, UNREASONABLE AND IN VIOLATION OF THE FREEDOM OF SPEECH AND EXPRESSION GUARANTEED BY THE CONSTITUTION

5. It is most humbly submitted before the court that Art. 19(1)(a)¹² of Indian constitution grants all people the right to freedom of speech and expression, which includes the right to freely express one's thoughts and opinions without fear of retaliation, the right to impart, receive, and publish news and knowledge, and the right to be updated. As the Hon'ble Supreme Court has already said, freedom of speech and expression is essential for the advancement of one's own individuality as well as the progress of parliamentary democracy. The term "internet shutdown" refers to a government-mandated suspension of internet access for a set period of time at a specific location by the service provider. Individuals' freedom to seek, receive, and transmit ideas and information of all kinds is limited when the internet is shut down.
6. The suspension of communication networks and the shutdown of the internet limits an individual's ability to express themselves and receive information; without access to

¹⁰ Waman Rao v. Union of India, (1981) 2 SCC 362

¹¹ S.R Bommai v. Union of India, (1994) 3 SCC 2.

¹² Art. 19(1)(a), the Constitution of India, 1950

information, freedom of speech and expression is meaningless. It limits not only freedom of speech and expression, but also other privileges that derive from it. The government's interruption of internet services is a breach of the 2016 resolution of the United Nations Human Rights Council, which reaffirmed that the same rights that citizens have offline must also be covered online.

**SHUTDOWN OF INTERNET SERVICES ON BOTH MOBILE AND BROADBAND IS A
RESTRICTION ON THE FREEDOM OF RIGHT TO ACCESS INTERNET**

7. It is submitted that the mode of internet shutdown limitation is on both access to the internet via cell phones and access to the internet via fixed line broadband. The majority of users access the internet via mobile phones in contrast to fixed line broadband and wired internet. As a result, shutting down internet services on mobile and cable is a restriction on the ability to access the internet, which is a fundamental human right. The government's restriction and denial of internet access is a violation of Art 19¹³ of the International Covenant on Civil and Political Rights.
8. It is humbly submitted that shutting down the internet is an infringement of an individual's right to education because it denies him or her access to a large and expanding source of information accessible online, classes, reading content, and scholarly researches, as well as a limitation on the right to access the internet through a mobile device's right to privacy.

In the case of *Vishakha & Ors. Vs. State of Rajasthan & Ors.*,¹⁴ the Hon'ble Supreme Court held that

“in the light of Article 51(c)¹⁵ and 253¹⁶ of the Constitution of India and the role of judiciary envisaged in the Beijing Statement, the international conventions and norms are to be read into the Fundamental rights guaranteed in the Constitution of India in the absence of enacted domestic law occupying the fields when there is no inconsistency between them.”

¹³ Art. 19, International Covenant on Civil and Political Rights, 1976

¹⁴ *Vishakha & Ors. Vs. State of Rajasthan & Ors.*, AIR 1997 SC 3011 : (1997) 6 SCC 241

¹⁵ Art. 51(c), the Constitution of India, 1950

¹⁶ Art. 253, the Constitution of India, 1950

9. Further, in the case of ***Life Insurance Corporation of India v. Prof. Manubhai D. Shah***,¹⁷ the Supreme Court held that:

“Every citizen of this free country, therefore, has the right to air his or her views through the printing and/or the electronic media subject of course to permissible restrictions imposed under Article 19(2) of the Constitution. The print media, the radio and the tiny screen play the role of public educators, so vital to the growth of a healthy democracy.”

“Freedom to air one's views is the lifeline of any democratic institution and any attempt to stifle, suffocate or gag this right would sound a death-knell to democracy and would help usher in autocracy or dictatorship. It cannot be said that modern communication mediums advances public interest by informing the public of the events and developments that have taken place and thereby educating the voters, a role considered significant for the vibrant functioning of a democracy. Therefore, in any setup, more so in a democratic set-up like ours, dissemination of news and views for popular consumption is a must and any attempt to deny the same must be frowned upon unless it falls within the mischief of Article 19(2)¹⁸ of the Constitution...”

10. The Hon'ble Supreme Court in the case of ***Ministry of Information and Broadcasting, Govt. of India v. Cricket Assn. of Bengal***¹⁹, noted:

“The right to impart and receive information is a species of the right of freedom of speech and expression guaranteed by Article 19(1)(a) of the Constitution. A citizen has a fundamental right to use the best means of imparting and receiving information and as such to have an access to telecasting for the purpose....

FREEDOM OF SPEECH AND EXPRESSION CAN ONLY BE LIMITED BY THE MEANS OF REASONABLE RESTRICTIONS

11. It is humbly submitted that Article 19(1)(a) of the Indian Constitution guarantees freedom of speech and expression, which can only be limited by the appropriate restrictions mentioned in clause (2) of Article 19. Only in the interests of state security, friendly

¹⁷ *Life Insurance Corporation of India v. Prof. Manubhai D. Shah*, (1992) 3 SCC 637

¹⁸ Art. 19(2), the Constitution of India, 1950

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

relations with foreign states, public order, decency or morality, or in relation to contempt of court, defamation, or incitement to an offence can freedom of expression be limited.

The Hon'ble Supreme Court in **Chintaman Rao v. State of Madhya Pradesh**²⁰, held that:

“7. The phrase “reasonable restriction” connotes that the limitation imposed on a person in enjoyment of the right should not be arbitrary or of an excessive nature, beyond what is required in the interests of the public. The word “reasonable” implies intelligent care and deliberation, that is, the choice of a course which reason dictates. Legislation which arbitrarily or excessively invades the right cannot be said to contain the quality of reasonableness and unless it strikes a proper balance between the freedom guaranteed in Article 19(1)(g)²¹ and the social control permitted by clause (6)²² of Article 19, it must be held to be wanting in that quality.”

12. The Hon'ble Supreme Court in the case of **Mohd. Faruk v. State of Madhya Pradesh & Ors.**²³, this Court said:

“The Court must in considering the validity of the impugned law imposing a prohibition on the carrying on of a business or profession, attempt an evaluation of its direct and immediate impact upon the Fundamental rights of the citizens affected thereby and the larger public interest sought to be ensured in the light of the object sought to be achieved, the necessity to restrict the citizen's freedom, the inherent pernicious nature of the act prohibited or its capacity or tendency to be harmful to the general public, the possibility of achieving the object by imposing a less drastic restraint, and in the absence of exceptional situations such as the prevalence of a state of emergency-national or local-or the necessity to maintain essential supplies, or the necessity to stop activities inherently dangerous, the existence of a machinery to satisfy the administrative authority that no case for imposing the restriction is made out or that a less drastic restriction may ensure the object intended to be achieved.”

²⁰ *Chintaman Rao v. State of Madhya Pradesh*, AIR 1951 SC 118

²¹ Art. 19(1)(g), the Constitution of India, 1950

²² Art. 19, Clause 6, the Constitution of India, 1950

²³ *Mohd. Faruk v. State of Madhya Pradesh & Ors.*²³, [1970] 1 S.C.R. 156

13. The shutdown of the internet is a breach of Art. 19 of India's Constitution, which guarantees freedom of expression. Since the imposition of Sec. 144 of the CrPC in the affected location by police officials, the internet has been shut down amid anti-CAA and NRC protests in various parts of the country, which is a violation of freedom of speech and expression because it restricts citizens' expression and dissent, as well as a violation of other laws. The act of shutting down the internet has cut off contact between people in a specific location and the rest of the world and region.
14. The underlying logic that breaches of public order, or the triggering of violence, can be prevented if people are stopped from gathering is vague and illogical. It is the state's responsibility to ensure that adequate security arrangements are in place in times of dissent and political unrest, and that less drastic restraint is used rather than arbitrarily shutting down the internet.

The Hon'ble Supreme Court in ***S. Rangarajan Etc vs P. Jagjivan Ram***²⁴ observed that:

“We want to put the anguished question, what good is the protection of freedom of expression if the State does not take care to protect it? If the film is unobjectionable and cannot constitutionally be restricted under Article 19(2), freedom of expression cannot be suppressed on account of threat of demonstration and processions or threats of violence. That would tantamount to negation of the rule of law and surrender to blackmail and intimidation. It is the duty of the State to protect the freedom of expression since it is a liberty guaranteed against the State. The State cannot plead its inability to handle the hostile audience problem. It is its obligatory duty to prevent it and protect the freedom of expression.”

15. Hon'ble Supreme Court in ***Anuradha Bhasin v Union of India & Ors***,²⁵ and ***Ghulam Nabi Azad v Union of India & Anr***²⁶, held that:

“We declare that the freedom of speech and expression and the freedom to practice any profession or carry on any trade, business or occupation over the medium of internet enjoys constitutional protection under Article 19(1)(a) and Article 19(1)(g). The restriction upon such fundamental rights should be in

²⁴ *S. Rangarajan Etc vs P. Jagjivan Ram*, 1989 SCR (2) 204

²⁵ *Anuradha Bhasin v Union of India & Ors*, (2020) 3 SCC 637

²⁶ *Ghulam Nabi Azad v Union of India & Anr*, W.P(C). No 1164 of 2019

consonance with the mandate under Article 19 (2) and (6) of the Constitution, inclusive of the test of proportionality.”

16. It is most humbly submitted before the court that the act of shutting down the internet is not only a violation of fundamental rights, but also a pernicious attempt by the government and police to suppress opposition under the guise of preserving public order.

The Hon’ble Supreme Court in ***Ramlila Maidan Incident Vs. Home Secretary, Union of India (UOI) and Ors***²⁷ held that:

“The distinction between 'public order' and 'law and order' is a fine one, but nevertheless clear. A restriction imposed with 'law and order' in mind would be least intruding into the guaranteed freedom while 'public order' may qualify for a greater degree of restriction since public order is a matter of even greater social concern. Out of all expressions used in this regard, as discussed in the earlier part of this judgment, 'security of the state' is the paramount and the State can impose restrictions upon the freedom, which may comparatively be more stringent than those imposed in relation to maintenance of 'public order' and 'law and order'. However stringent may these restrictions be, they must stand the test of 'reasonability'. The State would have to satisfy the Court that the imposition of such restrictions is not only in the interest of the security of the State but is also within the framework of Articles 19(2) and 19(3) of the Constitution.”

17. The suspension of internet order at the farmer protest sites issued by the Ministry of Home Affairs was a gross misuse of power by the Central Government and caused disruption to individuals in exercising their fundamental rights conferred under Article 19 (1) (a) which had been upheld by the Hon’ble Supreme Court in ***Anuradha Bhasin v. Union of India***²⁸ and ***Foundation for Media Professionals v. Union Territory of Jammu and Kashmir and Anr***²⁹. Fundamental rights of citizens cannot be curtailed in this manner simply because a large number of people are raising their voices against the government. Governments are attempting a feeble attempt to prevent farmers and real journalists from bringing the true picture before the nation by restricting the use of the

²⁷ *Ramlila Maidan Incident Vs. Home Secretary, Union of India (UOI) and Ors*, SUO MOTU W.P. (CRL.) NO. 122 OF 2011

²⁸ Supra note 25

²⁹ *Foundation for Media Professionals v. Union Territory of Jammu and Kashmir and Anr* (2020) 5 SCC 746

internet. The internet is a fundamental human right that allows citizens to express themselves on global platforms. The internet has a larger scope and is an empty jar into which people pour their substance in the light and on global platforms. The United Nations has even suggested that the internet be declared a Fundamental Right by all countries, and that disconnecting people from the internet is a violation of their human rights and a violation of international law. In such tumultuous circumstances, the internet is the only constitutional tool available to farmers and citizens to communicate their constantly changing status at protest sites. Farmers were concerned that their voices would be silenced as internet services were suspended in and around the Singhu Border, and that only the government's one-sided narrative would be presented, which would be a clear attack on the Constitution's fundamental values. Protesting farmers were attacked, castigated, and faced food and water scarcity due to roadblocks under the guise of maintaining peace and security. This is a violation of basic human rights and a flagrant violation of the Constitution's Right to Life, which is enshrined in Article 21³⁰.

18. The Hon'ble Supreme Court in ***Indibly Creative Pvt. Ltd. vs Govt. Of West***³¹, has held that:-

“The police are not in a free society the self-appointed guardians of public morality. The uniformed authority of their force is subject to the rule of law. They cannot arrogate to themselves the authority to be willing allies in the suppression of dissent and obstruction of speech and expression.” Internet shutdown the act in its manifest is against the public order and tranquillity as it creates the instance of unrest, agitation, frustration and brings the general life of its users and citizens to standstill as people are not able to enjoy their right in their maximum capacity. It amounts to hijacking of the freedom guaranteed by the Constitution of India”.

19. The Hon'ble Supreme Court in ***S. Rangarajan Etc vs P. Jagjivan Ram***³², 1989 observed that the freedom of speech and expression could be restricted only under the limited circumstances in Article 19(2):

³⁰ Art. 21, the Constitution of India, 1950

³¹ *Indibly Creative Pvt. Ltd. vs Govt. Of West*, W. P(C). No 306 of 2019

³² *S. Rangarajan Etc vs P. Jagjivan Ram*, 1989 SCR (2) 204

“Freedom of expression which is legitimate and constitutionally protected, cannot be held to ransom, by an intolerant group of people. The Fundamental freedom under Article 19(1)(a) can be reasonably restricted only for the purposes mentioned in Articles 19(2) and the restriction must be justified on the anvil of necessity and not the quicksand of convenience or expediency. Open criticism of Government policies and operations is not a ground for restricting expression. We must practice tolerance to the views of others. Intolerance is as much dangerous to democracy as to the person himself.”

It is most humbly submitted before this Hon’ble court that internet shutdown restricts the freedom of an individual to seek, receive and impart ideas and information of all kinds. Internet shutdown and suspension of communication services restricts an individual’s right to voice its opinion and receive information, without access to information freedom of speech and expression is meaningless. It not only restricts freedom of speech and expression but also other ancillary rights flowing from it. The acts of suspending and shutting down internet services is wholly arbitrary in nature, unreasonable, unjust and is in violation of freedom of speech and expression guaranteed by the constitution of India, freedom of speech and expression is the first condition of liberty.

PRAYER

In view of the abovementioned facts and circumstances and in the interest of justice, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- a) Issue a Writ, order, or direction in the form of a Mandamus declaring Internet shutdowns to be unconstitutional and in violation of Art 19 and 21 of the Indian Constitution, and therefore unconstitutional, unlawful, and unenforceable; or
- b) Issue guidelines to avoid arbitrary and unfair Internet shutdowns under the 2017 Temporary Suspension of Telecom Services (Public Emergency or Public Safety) Rules; or
- c) Pass any such other order(s) or direction(s) as this Hon'ble Court may deem fit in the interest of Justice, Equity and Good Conscience;

AND FOR THIS ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL FOR EVER PRAY

COUNSEL FOR THE PETITIONER

Place:

Date: