

Amended Petition

IN THE HON'BLE HIGH COURT OF JUDICATURE AT BOMBAY,

BENCH AT NAGPUR

Cri. Public Interest Litigation No. 5 Of 2019

In the matter between:

PETITIONER: Mohnish S/o Jivanlal Jabalpure ,
[REDACTED]
[REDACTED]

-VERSUS -

RESPONDENTS:

1. The State of Maharashtra,
Through its Chief secretary ,
Mantralaya, Mumbai – 400032
2. Devendra S/o Gangadhar Fadnavis ,
Aged about 49 years , Occ.- Chief
[REDACTED]
[REDACTED]
[REDACTED]
3. Amruta W/o Devendra Fadnavis
(Deleted)
4. Axis Bank through its CEO, Corporate
Office , Axis House , C-2, Wadia
International Center, Pandurang
Budkar Marg , Worli , Mumbai -400025
5. State Bank of India through its
Chairman , 18-19 , Devas Kamlleg
Block , Synergy Building , Bandra Kurla
Complex , Bandra East , Mumbai -
400051
6. Home Department, State of
Maharashtra through Additional Chief
Secretary , Home Department ,
Mantralaya , Mumbai .
7. Commissioner of Police, Nagpur.
(Formal Party)

8. Director General of Police, State of Maharashtra, Colaba, Mumbai
9. Reserve Bank of India through its Governor, through office at 16th Floor, Central Office Building , Sahid Bhagatsing Marg , Mumbai- 400 001.
10. Mr. Sudhir Mungantiwar, Finanace Minister State of Maharashtra , Mantralaya , Maumbai
11. Mr. Pravin Dixit, the then Director General of Police (on 11.05.2017) , M.S., Colaba, Mumbai .
12. Dr. Pradhnya Sarvade, Additional Commissioner of Police (Administration) Office of Direcetor General of Police, M. S. , Colaba , Mumbai.
13. Mr. K. Venkatesan, the then Commissioner of Police Nagpur presently Commissioner of Police Pune .
14. ALL Police Commissioner in State of Maharashtra through D.G. of M.S. Office, Colaba , Mumbai .

(as on 11.05.2017 as per the Circular No. क्र. पोमसं/३२/ लेशा/ अँकसीस बँक/MOU/२० महाराष्ट्र राज्य पोलीस मुख्यालय , शहीद भगतसिंग मार्ग , कुलाबा , मुंबई - ४०० ००१ दिनांक ११.०५.२०१७)

15. Commissioner, Rajya Guptavarta Vibhag, M.S. Mumbai

(as on 11.05.2017 as per the Circular No. क्र. पोमसं/३२/ लेशा/ अँकसीस बँक/MOU/२० महाराष्ट्र राज्य पोलीस मुख्यालय , शहीद भगतसिंग मार्ग , कुलाबा , मुंबई - ४०० ००१ दिनांक ११.०५.२०१७)

16. Apar Police Mahasanchalak , Ra. Ra. Police Bal / Vahtuk ,M.S. Mumbai

(as on 11.05.2017 as per the Circular No. क्र. पोमसं/३२/ लेशा/ अँक्सीस बँक/MOU/२० महाराष्ट्र राज्य पोलीस मुख्यालय , शहीद भगतसिंग मार्ग , कुलाबा , मुंबई - ४०० ००१ दिनांक ११.०५.२०१७)

17. Apar Police Mahasanchalak , Gunhe Anveshan Vibhag , Pune

(as on 11.05.2017 as per the Circular No. क्र. पोमसं/३२/ लेशा/ अँक्सीस बँक/MOU/२० महाराष्ट्र राज्य पोलीस मुख्यालय , शहीद भगतसिंग मार्ग , कुलाबा , मुंबई - ४०० ००१ दिनांक ११.०५.२०१७)

18. All Parikeshtya Vishesh Police Mahanirikshak through D.D.,M.S. Office , Colaba, Mumbai.

(as on 11.05.2017 as per the Circular No. क्र. पोमसं/३२/ लेशा/ अँक्सीस बँक/MOU/२० महाराष्ट्र राज्य पोलीस मुख्यालय , शहीद भगतसिंग मार्ग , कुलाबा , मुंबई - ४०० ००१ दिनांक ११.०५.२०१७)

19. Police Up Mahanirikshak , Gadchiroli Parikeshtra , Gadchiroli

(as on 11.05.2017 as per the Circular No. क्र. पोमसं/३२/ लेशा/ अँक्सीस बँक/MOU/२० महाराष्ट्र राज्य पोलीस मुख्यालय , शहीद भगतसिंग मार्ग , कुलाबा , मुंबई - ४०० ००१ दिनांक ११.०५.२०१७)

20. All Police Adhikskak / Sarva Prachrya Police Prashikshan Kendra / Sarva Samadeshak, Rajya Rakhi Police Bal through D.G.,M.S. Office , Colaba , Mumbai .

(as on 11.05.2017 as per the Circular No. क्र. पोमसं/३२/ लेशा/ अँक्सीस बँक/MOU/२० महाराष्ट्र राज्य पोलीस मुख्यालय , शहीद भगतसिंग मार्ग , कुलाबा , मुंबई -४०० ००१ दिनांक ११.०५.२०१७)

WRIT PETITION UNDER ARTICLE 226 OF
CONSTITUTION OF INDIA

The Counsel for Petitioner most humbly and respectfully submits as under:-

1. That, Petitioner is a law abiding citizen and is a social worker and whistle blower who has done many social cause in the interest of public at large, such as in case of "construction under High voltage electrification as illegal" "fast construction of Ramzhulla construction" and several matters of "Nagpur universities" etc the petitioner came to know through reliable sources about the illegality and miss use of power of the Respondent No 2 Hence he is continuously making complaints to the respondent no 1 to take action upon his complaints.
2. That, the Respondent No 2 is holding a post of Chief Minister of Maharashtra State. He is the Head of the Govt., he is also Head of the Executive Body of the Govt. the Department of Home also comes under his Ministry as well as he is Minister of General Administration, Urban Development, Home, Law and Judiciary, Ports, Information and Public Relations and Departments or subjects not specifically allotted to any other Minister.
3. That, the Petitioner applied under Right to Information Act to the Respondent No 1 and the Respondent No 1 after receipt of application of Petitioner under Right to Information Act. The Information Officer supplied information to Petitioner on 22/05/2018 & 11/05/2017 the copy of said information is enclosed herewith as **Annexure no I & II** collectively.
4. That, after receipt of the above said information the Petitioner came to know about illegality of Respondent No 2. Hence the Petitioner made a complaint to the Respondent No 1 for cancellation of Government Circular dated 11/05/2017 on 14.6.18. In his compliant the Petitioner also made an allegation regarding the miss use of the power of the Respondent No 2 with intention to help his wife i. e. (Amruta D. Fadnavis)'s bank in which she is working at

higher post . The copy is enclosed herewith as **Annexure no. III** . The Complaint was made through post the copy of postal receipt dated 14.6.18 is enclosed herewith **Annexure no. IV** .

5. That, the Right to Information Officer issued information to the Petitioner on dated 04/08/2018 the copy of the said information is enclosed herewith as **Annexure no. V** and stated that Finance Department has issued the circular dated 29.8.05 about the M. O. U. & Agreement and system of the salary to the Govt. Employees of the Maharashtra State and also supplied one Jodhpatra "ek", in this jodhpartaek they had supplied the list of 14 banks with whom they had M. O. U. and Agreement with the Govt. for all the transactions relating the salary of the employees of the Maharashtra State. The circular is annexed herewith as **Annexure no. VI** . The Respondent No. 2 instead of dealing with these 14 banks. The Respondent No. 2 with intention to help in the carrier of his wife has dealt with Respondent No. 4, with intention to promote her in her professional carrier.

6. That, thereafter again on 16/03/2019, the Right to Information Officer issued letter to the Petitioner stating that they have received compliant of dated 14/06/2018 made by the Petitioner, they have also received the application for right to information act of dated 11/03/2019 in which the Petitioner asked the Respondent No.1 to supply the copy of action taken upon his complaint dated 14/06/2018. Which was received by them on 20/06/2018 and was inward in their department wide bearing no. 3163331/2018 . The copy of said information is enclosed herewith as **Annexure no. VII** . But the Government officials are misguiding about the action upon the complaint of the Petitioner stating that his application is pending and forwarded to various departments. The copy of said receipt No 316331/2018, dated 07/08/2018 is enclosed herewith as **Annexure No. VIII**.

7. That, again on 25/06/2019 the Right to Information Officer again issued a letter to the Petitioner stating that the compliant which was sent by the Petitioner on dated 11/03/2019 and application dated 14/06/2018 to Respondent No. 1 has been sent to other department for appropriate action at appropriate time and he has mention the date on which the complaint was transferred from one department to another. The copy of said communication is enclosed herewith as **Annexure No. IX**.

8. That, the Petitioner was shocked while reading a Newspaper (Lokmat Samachar) of dated 22/06/2019. Page No. 3 "APNA NAGPUR". The heading was "NIRADHARO KI NIDHI MEIN GOLMAAL", the copy of said newspaper is enclosed herewith as **Annexure No. X** after going through this article the Petitioner came to know that not only the Respondent No 2 have transferred the accounts of Police Officials but the Accounts of Sanjay Gandhi Niradhar Yojna/Accounts of widows/Accounts of handicapped were also have been transferred to Axis Bank of entire State from other Nationalized Bank which is a great loss to the Nationalized Bank.

9. That, again on 25/06/2019 the Petitioner made a compliant to the Respondent No. 1 regarding salary account and Niradhar Yojna to transfer their account and to take action against the wrong doers the copy of said complaint is enclosed herewith as **Annexure No. XI** and this complaint were made through post. The copy of postal receipt is enclosed herewith as **Annexure No. XII** collectively .

10. That, the Petitioner wants to submit that due to this Maharashtra Government Circular the nationalized banks are affected and due to this Maharashtra Government Circular the Respondent No. 2 has promoted the private bank with only and intention to favor the bank in which the wife (Amruta D.Fadnavis) of Respondent no.2 is working at higher post. As she is the wife of Respondent No. 2, due to this

circular, more and more police officials have to, means lakhs and lakhs account have been transferred from other banks/ nationalized Bank to Axis Bank, means it is loss to the nationalized banks.

9. That, the police employees of the Maharashtra State have been directed through this Maharashtra Government Circular that to transfer there bank account and to do Agreement or M.O.U. from the nationalized bank (State Bank of India) to Axis bank (A private sector bank). Which the Respondent No. 2 cannot pressurize to the police department to transfer their account forcefully or by misguiding them, through this circular.-

A. About accidental Claim it is mentioned that Axis bank will going to provide 30 Lakhs, if Application would have been called by other banks, there would have been more amount for the Police Officials. But the Respondent No. 2 did not follow the procedure nor called any Tender from the Other banks.

B. About Debit Card, this facility would have been provided by other banks also if application would have been called by other banks.

C. If Application or Tender would have been called the other banks would have given more amount then 5 lakhs to the Police Officials.

D. Again it is mentioned that Axis bank will going to provide 30 Lakhs in case of permanent Handicapped This would have been given by other banks also if procedure has been followed by the Respondent No. 2.

E. According to Respondent No. 2, he every time travels by Aero plane. It is very strange while reading this condition that, the Respondent No 2 should have knowledge that a single person can accidental claim either from the police department or by the aero plane tickets they are also providing the same claim facilities in case of accidents to

each and every passenger. This is nothing but miss-guiding to the Police officials, and every police officials are not travelling from aero planes as respondent no .2 travels.

Same as Para No 2, 3 (1) (2) (3) of same circular of dated 11/05/2017 is miss guiding and pressurizing one by the Respondent No, 2 to police authorities/employees and other employees of state.

10. That, it is arbitrarily, discriminating and the act of the Chief Minister of Maharashtra state is of favoritism and nepotism.

11. That, the Government cannot be permitted to say that it will enter into the contract only in favor of their peronals. The Government is still the Government, what is acted in the matter of Maharashtra Government Circular. He cannot Act, arbitrarily, it does not stand in the same position as a private individual.

12. That, whenever any governmental action fails to satisfy the text of reasonableness and public interest, it is liable to be struck down as invalid. The government cannot act in a manner which would benefit a private/individual or the bank in which (Amruta D. Fadnavis) is working at higher post , hence the Maharashtra Government Circular passed on is contrary to public interest.

13. That, the aforesaid Maharashtra Government Circular executed on dated 11/05/2017 was vitiated on account of illegality and bad faith there was absolutely no basis for any exercising to come to a conclusion for passing such Maharashtra Government Circular.

14. That, the Chief Minister of Maharashtra state used his official position to obtain a pecuniary advantage for the Bank in which Amruta D. Padnavis is working at higher post without any public interest. This is a fit case for when the court may, order any inquiry by Central Bureau of Investigation also according to provisions of Section 13 (1)

(d) (iii) or any appropriate Sections of The Prevention of Corruption Act and relevant provisions of Indian Penal Code , an action under the said provisions needs to be initiated against the Respondents no. 2 and 4 as well as against other involved persons and officials of Bank and State Government .

15. That, the Maharashtra Government Circular passed under the influence of Chief Minister of Maharashtra state is without adopting proper procedure, the then chief minister acted malafidely with only intention to help the Axis Bank in which her wife is working at Higher Post.

16. That, under the provisions of The Prevention of Corruption Act, that with the active aid and blessing of the chief minister his wife (Amruta D. Padnavis) has been able to obtain a valuable post in Axis bank (Respondent No. 4) right from stage and when her husband (Devendra G. Fadnavis) became the Chief Minister and after passing this Maharashtra Government Circular she reaches to the post of President of Corporate Head, Western India, Axis Bank, from the post of cashier in Axis bank at Nagpur within a short time, which was not possible without this illegal Maharashtra Government Circular.

17. That, for the public at large as well as all affected Police Officials , the Petitioner it is most disturbing that "Can a highest functionary of the state executive being the Chief Minister of the state can influence to sign an agreement between the Axis bank (A private sector Bank) a private owned bank; contrary to the provisions of law, Can the head of the executive in the state shirk his responsibilities by helping the Bank in which his wife is working by passing such Maharashtra Government Circular for the private bank and can join the State government under any such Circular".

18. That, it is illegal, contrary to law and is liable to be set aside. Therefore in the larger public interest the Petitioner have approached this court. It is contended that the

respondent no.2 has with intention to help only to help his wife's (Amruta D. Fadnavis) Bank , all the employees of the police department of every, rank, class and caste has been directed to open there account in Axis Bank only rather than any nationalized bank or any other bank, only to get higher post to his wife in the Axis Bank . Amruta Fadnavis's husband has influenced to pass such Maharashtra Government Circular, the Chief Minister of Maharashtra State has misused his power and influenced to passed such Maharashtra Government Circular, without any tender and without any intimation or information officially to anyone other Banks . Without following any routes and procedure, this Maharashtra Government Circular has been issued/passed and all agreements with the Axis Bank and all transaction were entered into without any authority of Law.

19. That, this Maharashtra. Government Circular was passed and was done as quid pro quo for bringing/lifting up and promoting the wife of the Chief Minister in bank sector by this Maharashtra Government Circular, due to this illegal act of the chief minister other deserving employees/officers are affected who were senior/capable or promoter for their work in Axis Bank.

20. That, this is the most arbitrary and illegal exercise of power, there was not allotment, no application of mind, no procedure was followed, in the interest of all the concern, it is better not to disturb the running accounts of the public department (police department). Apart no action has been taken about the complaint of the Petitioner dated 14/06/2018 & 25/06/2019 till filing of this Petition and the authorities are continuously misguiding the Petitioner stating that his complaints are transferred/pending in various departments.

21. This is a writ petition filed in a public interest litigation challenging the action of the Maharashtra Government Circular wholly owned and controlled of the government of

Maharashtra for passing a government Circular and entering into a contract with "Axis Bank" whereby with interest to help to the wife (Amruta D. Fadnavis)'s bank and to help her in service and post while passing such government resolution in favor of Bank in which his wife Amruta D. Fadnavis is working at higher post.

22. That, in the issue in this petition is transfer of salary of Policemen and Police Officials of Home Department State of Maharashtra from which was in the accounts of Nationalized Banks to the accounts in Axis Bank on the instructions or undue influence of the Chief Minister Shri Devnedra Fadnavis for which the Officials who were working in 2017 in the office of respondent no. 6 Home Department M.S. Mantralaya Mumbai, respondent no. 7 Commissioner of Police Nagpur & Respondent No. 8 Director General of Police are responsible with other responsible .

23. The respondent No. 9 Reserve Bank of India is the supervisory authority to keep surveillance , monitoring and all other necessary affairs of Banks and banking affairs of the banks in India .The State Bank and other Nationalize Banks and private / commercial Banks are comes under such jurisdiction of Respondent No.9 Reserve Bank of India . All the necessary data in the issue of the instant Petition will require to be on the record of RBI.

24. Respondent no. 10 Mr. Sudhir Mungantiwar is the Finanace Minister of State of Maharashtra, he is also a cabinet Minister to the Ministry of Chief Minister Mr. Devendra Fadnavis . That, the Monthly salary of all the officials of Home Department transfers from State treasury / account to Home Department through Finance Ministry. It is impossible that if money for the Home Department official's salary increases going to Axis Bank than the Nationalized Bank then it cannot remains out of Knowledge of the Finanace Minister or it is not brought in the notice of the Finanace Minister of the State by the officials of the Finance

Ministry of the Maharashtra State. It is possible that due to influence of the Chief Minister Mr. Devendra Fadnavis Respondent no. 10 Mr. Sudhir Mungantiwar remains silent on the such serious issue.

25. That, Respondent No. 11 Mr. Pravin Dixit was the Director General of Police in whose tenure this disputed circular came to be issued on 11.05.2017, which favoring of Axis Bank . It is impossible that without his consent such circular can be issued by his office. If it is issued by his office without his consent then what action he had taken in this regard is a material issue and if it is not then what is his involvement in the said offence with Criminal Conspiracy is a future issue. It is the experience of various citizen of State, in Nagpur and where respondent no. 11 served as a Police Commissioner or as a higher Police Official , he was known as a man in confidence of Mr. Fadnavis and he was always inclined in favor of Chief Minister Mr. Fadnavis and his peoples. There are great possibilities that he might favored the influence of Mr. Fadnavis in issuance of the said circular through his office when he was serving as a Director General of Police.

26. That, Respondent no. 12 Dr. Pradhnya Sarvade, Addl. Commissioner of Police is the main witness or out of main of the culprits in this scam or issue in the Petition. It can be very easy to know from respondent no. 12, what happened at that time of issuance of disputed circular "क्र. पोमसं/३२/ लेशा/ अँक्सीस बँक/MOU/२० महाराष्ट्र राज्य पोलीस मुख्यालय, शहीद भगतसिंग मार्ग , कुलाबा , मुंबई -४०० ००१ दिनांक ११.०५.२०१७ " and who were/are involved in the said act. The said circular was issued to the offices of various other Police officials with necessary directions in favor of Axis Bank , those are respondents no. 14 to 20. The respondent no. 12 Dr. Pradhnya Sarvade if saved from the dangers to her life from the suspected persons involved in this scam /issue, then it is

very easy to truth can be come out and names of the responsible persons can be come out .

27. That, the respondent no. 13 Mr. K. Venkatesan , he was a Commissioner of Police Nagpur on 11.05.2017. He was also known to be man under confidence of Mr. Fadnavis , presently he is serving as Commissioner of Police at Pune City. He gave interview to the international and national news paper or agency that he had circulated and followed the disputed circular in Nagpur Police Force to convince the Police officials and Staff to shift the salary in account of Axis Bank by closing it in the account of Nationalized Bank.

There is no other appeal ,case, matter, Application pending before any other Court of law of India except this petition.

Hence, the Petitioner approached this court for issuance of appropriate writ under 226 of constitution of India, seeks to challenge action of the state.

Prayer :- That, this Hon'ble Court may be pleased

1. To issue a Writ or Mandamus or any other Writ or Order directing Respondent No. 4 to file Audit Report from the year 2017 - 18, 2018 - 19 and to ask how much accounts have been Added in there bank from the police department in Maharashtra state, after the circular passed by the respondent no. 2, from the year 2017, and how much of transaction has been increased after such circular of dated 11/5/2017.

To issue a Writ or Mandamus Or any other Writ or Order to direct Respondent No. 5 to file Audit Report from the year 2017 - 18, 2018- 19 and to ask how much of accounts have been transferred of police officials from his bank to Axis Bank and how much of loss does he has bear due to the transfer of accounts, from the year 2017, after

Passing such circular of dated 11/5/2017 by the respondent no.2

2. To issue a writ or mandamus or any other appropriate writ or Order or direction under article 226 of constitution of India, commanding or directing Respondents No.1 to cancel or to revoke the Maharashtra Government Circular dated 11/05/2017 and all approvals, agreement, permission and action taken in pursuance.

3. To direct any high level investigation and enquiry into the entire transactions of the Maharashtra Government Circular and agreement between the Respondent No. 4 Axis Bank as well against all the responsible officers of the State and ministry and government and to conclude the investigation within a period of one months from the date of order from commencement thereof and to file an action taken report in that behalf in this Hon'ble Court, during the pendency of this petition.

4. To direct to issue writ of mandamus or any other writ Order or directing central Bureau of Investigation to initiate an investigation into the entire transaction pertaining to Maharashtra Government Circular of dated 11/5/2017 relating to transfer of accounts from other bank or nationalized bank to Axis Batik and to investigate offences under The Prevention of Corruption Act, 1988 and such any other act or any other such offences as may be disclosed upon the Respondent No.2 and 4 and other responsible .

5. (Deleted)

6. To pass any other order as this hon'ble court deems fit according to the facts and circumstances of the case.

Place : Nagpur

Date : 05/08/2019 (C F. Petitioner) (Petitioner)

SOLEMN AFFIRMATION

I, Mohanish S/o, Jeevanlal Jabalpure, aged about 33 years, Occupation [REDACTED]

[REDACTED] do hereby solemnly affirm that the contents mention in Para No 1 to 27 is drafted by counsel as per instruction given to him and it is explained to me in vernacular.

Hence, verified and signed on this 5th August 2018 at Nagpur.

I Know the Deponent

Deponent

Advocate