

SYNOPSIS & List of Dates & Events

24.03.2020- Nationwide Lockdown declared by the Govt. amid COVID-19.

29.03.2020- Ministry of Home Affairs issue order in relation to landlord & tenant agreement, no landlord to order vacation of premises and not to collect rent from student & labour class for one month, amid covid-19.

29.03.2020 to 13.04.2020 – That various State's in India are hub for students like Delhi, Mumbai, Kota City, Chennai and with mass population is constituted by students & labour's in these cities and they are comparatively lower on income scale as well and with extension of lock-down till 03rd May, 2020 the above class is facing issue of paying rental accommodation as the source of income during this period is Nil and savings with these families are minimal, where as for food they are dependent upon the services extended by the govt in there local area through fair price shops & other NGO Help.

That the Ministry of Home affairs vide order dated 29.03.2020, said that landlord's should not to collect rent from student & labour class for a period of one month because the above class is financially weaker and during standstill face of economy, various class of citizens may face issue, therefore the landlord may not ask for rent or order to vacate the rental premises during this period. However, various instances have been reported where landlords are forcing the above class citizens to vacate the premises or being threatened to be thrown out of their premises and the

petitioner has reproduced letters from various organisations serving to above class that such situation is not being addressed and students at large of there community are being threatened and hence the petitioner on public interest moved before Hon'ble Court to issue direction to respondents to implement the order dated 29.03.2020 in strict manner.

14.04.2020- Lockdown further extended till 3rd May, 2020 and the earlier notification period further extended till 03rd May, 2020.

Hence the Instant PIL.

Filed by:
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BEFORE THE HON'BLE SUPREME COURT OF INDIA
ORIGINAL JURISDICTION
PUBLIC INTEREST LITIGATION
WRIT PETITION (C) /2020

IN THE MATTER OF;

PAWAN PRAKASH PATHAK AND OTHERS

...Petitioner

VERSUS

UOI & ANR.

...Respondent

WRIT PETITION UNDER ARTICLE 32 OF
CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT OF
MANDAMUS OR ANY OTHER APPROPRIATE WRIT,
ORDER OR DIRECTION TO THE RESPONDENTS TO
COMPLY THE ORDER DATED 29.03.2020 ISSUED BY
THE MINISTRY OF HOME AFFAIRS WHILE
EXERCISING THEIR POWER UNDER SECTION 10(2)(1)
OF THE DISASTER MANAGEMENT ACT, 2005.

TO ,

THE HON'BLE CHIEF JUSTICE AND HIS

COMPANION JUDGES OF THE SUPREME COURT OF
INDIA.

MOST RESPECTFULLY SHEWETH:

1. That the petitioner is filing the instant writ petition in public interest under article 32 of the constitution of India, 1950. The petitioner has no personal interest in the litigation and the petition is not guided by self-gain or for gain of any other person / institution / body and that there is no motive other than of public interest in filing the writ petition.

1A. That the petitioners have based the instant writ petition from authentic information and documents made available through publically available documents, either obtained through Letters or from the websites of the Government, State.

1B. That the petition, if allowed, would benefit the citizens of this state, generally as rule of law is essential for democracy and such brazen violation of law by state is to the detriment to citizens as a whole. Since these persons are too numerous and have no personal interest in the matter, they are unlikely to approach this Hon'ble Court on this issue. Hence the petitioners herein prefer this PIL.

1C. The affected parties by the orders sought in the writ petition would be the Union of India, Ministry of Home Affairs, who have been made as a Respondent. To the best of the knowledge of the petitioner, no other persons / bodies / institutions are likely to be affected by the orders sought in the writ petition.

1D. The present Writ Petition under Article 32 of the Constitution of India is being filed by the Petitioner to enforce fundamental rights of the Students at large, particularly the Right to Equality (Article 14), Right to Life as enshrined under Article 21 & guaranteed by the Constitution. That the petitioner is a law abiding

citizen of this country and filling the instant writ petition for the issuance of a writ of mandamus of any other appropriate writ to implement the order dated 29.03.2020 of the M.H.A addressed to the public that no landlords to collect rent from the labour class & student for a month during COVID-19 period and one who will violated law will be punished appropriately.

1E. That the petitioner has not made any similar representation of this nature before any court, tribunal or any state instrumentalities & also that petitioner has not filled any other petition seeking similar relief either before this Hon'ble Court or any other Court or tribunal.

1F. That there is no Civil, criminal or revenue litigation, involving the petitioner, which has or could have a legal nexus with the issues involved in this PIL nor any other pending litigation.

1G. That there is no personal interest in filling this PIL and it is bonafide and in large public interest. If the instant PIL is not filled and the inaction of the respondents to direct landlords, Paying Guest owners, Other Corporate Institutes running Paying Guest facility for students & labour class, forcing tenants to vacate premises , if continue this will lead to mass breach of fundamental right of the citizens in matter relating to right to life. Hence the instant PIL.

2. That the Petitioner is a citizen of India and a practising Advocate with Enrol No. D/6911/2017 & Resident of Delhi. That the instant writ petition is being filled against the arbitrary & unlawful action of Landlords in state of Delhi amid COVID-19 where there is clear instruction issued by the Ministry of Home

affairs that in order to maintain the lockdown situation & law and order during COVID-19, order dated 29.03.2020 “restraining all landlord to forcing labours & student to vacate their premises”, in case they fail to pay rent during this period”.

3. That irrespective of the MHA order dated 29.03.2020 amid COVID 19, not to demand rent for a period of one month & further not to force tenant to vacate premises during this period, it is brought to notice that various landlords forcing tenant students to pay full rent or failing which they will be thrown out of premises and petitioner himself is a witness to this situation. Copy of Order is annexed as **Annexure P-1**.

BRIEF FACTS:

5. That due to the nation wise lockdown announced by the Government of India for the containment of Covid-19, all the Economical activities has been stopped and due to this each and every family is suffering a financial crisis.

6. That the maximum population of our country is engaged in informal sector/self-employed, and the people who are engaged in informal sector/self-employed are worst affected by the lockdown, which is unavoidable and in favour of the public at large.

7. That a large section of population of Delhi, Mumbai, Kota City, Bangalore are young students who live out of station for their study and most of them are College students from different parts of India and they live in rented accommodations and students who belong to poor family and lower middle class family group are dependent on their parents income for their monthly

expenses, also there are many students who used to earn their monthly expenses by taking home tuition & through other legal sources, but due to the lockdown the entire economy and activities have come to standstill and as a repercussion of it, labour class and students are unable to pay rent of their accommodation and due to which they are being threatened to vacate the rented premises amid covid-19.

8. That the petitioner No.02 Name Abhijeet Kumar Pandey, s/o Binod Kumar Pandey, who is a Final Year Law student of Campus Law Centre, Delhi University belongs to a very humble background whose father is a disabled person, he used to get his monthly expenses from his parents but due to the lockdown his parents are finding it very difficult to send money for the petitioner's monthly expenses, the petitioner wants to return to his home but due to the lockdown he is unable to go to his home, He is trying to sustain within a very minimum resources which his parents were able to send him during starting of this month, but with the announcement of further lockdown period till 03rd May, 2020 he will be financially broken & nor his parents would be able to help financially and such is a case of various students belonging to lower income class group.

9. That the another student who is acquaintance of petitioner no.02 Name Uttam Kumar, s/o Mahangu Rai, who is a second year student of campus law Centre, Delhi university is unable to pay his rent due to this lockdown as he used to earn his monthly expenses by taking home tuition but due to the lockdown, he is not getting any home tuition because of complete restrictions on movement of the people, and his father who is a marginal farmer is unable to send him money because of sharp fall in his income as he

used to sell vegetables/ grains in the local market but now everything has been stopped, which makes it difficult for him to arrange the money as he usually used to send .

10. That many students live in Private PG across the city, the PG owners provide meal to the students and for that they charge a fixed amount per month which is included in the rent, but due to the lockdown the PG owners are not providing food as the cook who used to cook food in PG is not coming as there is complete restrictions on the movement, But still PG owners are demanding the rent which they usually get every month when they provide the Meal to the students, many students are trying to oppose them to some extent.

11. That many landlords are continuously pressuring the students to pay their rent and students are living in constant fear and depressions, they are feeling helpless in this situation as they can't demand money from their parents because their parents are also suffering from financial crisis due to the lockdown, in such situation one is only left with one option i.e opportunity cost of money, either one can pay rent out of same amount or one can buy essential ration/food for family during this period.

12. That the petitioner shared the M.H.A order dated 29.03.2020 with the landlord, however they are not ready to comply with that order and willingly violating it and such is a case all over India, so through the instant writ the petitioner is praying for order in Rem that the order dated 29.03.2020 of M.H.A may be complied strictly and further order as well, if any to extend this benefit during COVID 19.

Question of Law;-

1. Whether the M.H.A order dated 29.03.2020 applies to all student class studying & staying in rented accommodation?
2. Whether the eviction defence applies in all scenarios & with all citizens irrespective of Labour & student class during COVID-19?
3. Whether this blanket protection is available to all students irrespective of their economic viability?
4. Whether any remedy available if landlord forcefully order evicting or evicted the tenant during covid 19?

GROUND:

1) That the M.HA in overall response to COVID-19, including social distancing and self-isolation, followed by lockdown was aware of significant economic impacts, and as a repercussion the ability of some citizens to make rent payments on time will get affected. The government has taken several measures to help residential and mobile home site renters meet these challenges, including new measures, no one will be evicted for non-payment of rent and/or utilities amid covid 19.

2. That No owner to evict a residential tenant for non-payment of rent if the tenant is unable to pay rent due to circumstance related to the COVID-19, such as:

2.1 Loss of income due to workplace closure or reduced hours due to COVID-19.

2.2 Loss of income or increased child care expenditures due to school closures.

2.3 Health care expenditures stemming from COVID-19 infection of the tenant or a member of the tenant's household who is ill with COVID-19. With this we will be able to implement the MHA order in letter and spirit and also to contain the virus.

3. That No property owner to exercise a No-fault Eviction during the Lockdown Period. No-Fault evictions means those not based on an alleged fault of the tenant. Landlords may not evict tenants due to the presence of unauthorized occupants, pets or nuisance related to COVID-19.

4. That Tenants facing eviction have an affirmative defence, if the proposed eviction is for non-payment of rent and the tenant's inability to pay rent results from circumstances related to the COVID-19 emergency. Tenants can raise the existence of this moratorium as a defence.

5. Because, it is respectfully submitted that in a pressing situation like this, the students who are staying in rented accommodations have limited resources at their disposal. Most of the students stuck are from humble background and they supplement their expenses by working part time for instance by taking tuition classes. But in situations like this they are struck in dire straits. If they will not be helped by the concerned government then they have to live in constant fear and depression caused by the suffering of financial crisis.

6. Because, majority of the parents are self-employed and because this pandemic has also created a dent in their income they are forced to cope up by spending whatever minimum savings they have accumulated. There being high uncertainty as to when this lock down would end and normalcy would be restored so any

demand for rent by the landlords would further aggravate the situation but also lead to undue harassment and embarrassment to the students.

7. Because, in predicament like this there are high chances of exploitation and coercion. The students staying in these accommodations are exposed to the whims of the landlord who can constantly harass them for paying rent which can have serious repercussions on their mental health in a calamity like this.

8. Because, at a time like this when the Government is imposing restrictions to curb the menace of this pandemic. The Government which is plays the Parens Patriae role is provider of fundamental right as well as protector of those rights, in the instant matter State shall ensure that the students are not constantly vexed by the landlords Otherwise it is the students who will have to suffer most at such a young age, they already are in continuous pressure of their study and career related issue, they can't be left to be in more pressure and depression.

5) Because, Article 21 of The Constitution of India,1950 which contemplates Right to Life also includes the right to live with dignity viz. without humiliation and embarrassment as held by Supreme Court in Maneka Gandhi v. Union Of India,1978.

6) Because, the Supreme Court in Bandhua Mukti Morcha v. Union Of India observed that it is the Fundamental Right of everyone in this country to live with human dignity which should be free from exploitation and oppression. The Right to live with human dignity is enshrined in Article 21 of the

Constitution of India, 1950 and derives its life from the Directive Principles of State Policy particularly clauses (e) and (f) of Article 39 and Articles 41 and 42 which includes protection of individuals against abuse and ensuring conditions of freedom and dignity.

7) Because, students are trying to survive within minimum resources, they are already getting very less as compared to normal situation (pre lockdown), in that minimum resources they can't be compelled to pay rent, if they will be compelled to pay rent within an already minimised resource then what would they eat, they are living far from their home and if they would be left as the government has done till date, then it will be a gross injustice with them.

8) Because, many students belongs to lower middle class whose parents used to run a small shop in the locality, due to the lockdown the shops were shut down and there is no income at all, so the parents find it difficult to send the money to their studying children.

9) Because, if the students will be pressurised for rent then they have to flee from the city where they came to study because they can't arrange the money even if they try their best because they all are depended on their parents income and during the lockdown their parents income is also very low or no income at all. So how they are supposed to pay, this is big issue which is laying unheard till date.

PRAYER:

The Petitioner, therefore, prays that in the facts and circumstances of the present case this Hon'ble Court may be pleased to issue writ of mandamus or any other appropriate writ or Direction in the like nature to the Respondent:

1. That the respondent may comply the order dated 29.03.2020 of M.H.A in strict sense;
2. That quick response be taken on eviction reporting by tenants amid COVID 19 or till further orders of the Govt.;
3. Pass such other and further orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

Filed by:
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BEFORE THE HON'BLE SUPREME COURT

PUBLIC INTEREST LITIGATION

WRIT PETITION (C) /2019

IN THE MATTER OF;

PAWAN PRAKASH PATHAK AND OTHERS

...Petitioner

VERSUS

UOI & ANR.

...Respondent

AFFIDAVIT

I, Pawan Prakash Pathak, aged 27 Years, S/o Chandra Prakash Pathak, R/O 231st floor, Hari Nagar Ashram, Delhi, do hereby solemnly affirm as under:

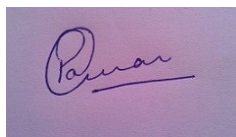
1. I am the Petitioner/applicant in the above mentioned Petition and familiar with the facts and circumstances of the case and competent to swear this Affidavit.
2. I state that the contents of the present writ Petition from Page No. to , and para No. to and Synopsis & List of Dates and events from Page No. to and events and all the information filled therein, are read over to me and are true and correct to the best of my knowledge and belief and which I believe to be true and correct and nothing material has been concealed there from.

3. I further state that all the Annexure i.e P1 to NA bearing page number from ____ to ____ to the Petition are true copies of their respective originals.

4. I further that I have not filed any similar petition before this Hon'ble Court or any Court of India.

5. I further state that I have no personal gain, private motive or oblique reason in filling the instant public interest litigation.

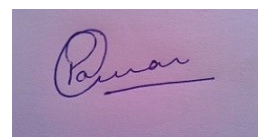
6. I further state that the petitioner has no pending litigation of any nature against him nor have any private interest in the issues involved in the PIL.



Deponent

Verification

Verified at New Delhi, on this 15/04/2020 that the contents of the above affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed there from.



Deponent

BEFORE THE HON'BLE SUPREME COURT
PUBLIC INTEREST LITIGATION
WRIT PETITION (C) /2019

IN THE MATTER OF;

PAWAN PRAKASH PATHAK AND OTHERS

...Petitioner

VERSUS

UOI & ANR.

...Respondent

AFFIDAVIT

I, Abhijeet , aged 24 Years, S/o Manhangu Rai , R/O D/33A Vijay Nagar, New Delhi, Delhi, do hereby solemnly affirm as under:

1. I am the Petitioner/applicant in the above mentioned Petition and familiar with the facts and circumstances of the case and competent to swear this Affidavit.

2. I state that the contents of the present writ Petition from Page No. to , and para No. to and Synopsis & List of Dates and events from Page No. to and events and all the information filled therein, are read over to me and are true and correct to the best of my knowledge and belief and which I believe to be true and correct and nothing material has been concealed there from.

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4. I further that I have not filed any similar petition before this Hon'ble Court or any Court of India.

5. I further state that I have no personal gain, private motive or oblique reason in filling the instant public interest litigation.

6. I further state that the petitioner has no pending litigation of any nature against him nor have any private interest in the issues involved in the PIL.

Deponent

Verification

Verified at New Delhi, on this 15/04/2020 that the contents of the above affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed there from.

Deponent