

IN THE HON'BLE SUPREME COURT OF INDIA**(CIVIL ORIGINAL JURISDICTION)****PUBLIC INTEREST LITIGATION****WRIT PETITION (CIVIL) NO._____ OF 2017**

(A petition under Article 32 of the Constitution of India praying for a Writ of Mandamus or any other appropriate writs seeking issuance of specific guidelines and/or directions in respect of targeted lynching)

IN THE MATTER OF:

Tushar Gandhi, S/o Arun Manilal Gandhi, aged about 57 years, R/o 9 Sukhramgruha, 2nd floor, Sir Vitthaldas Nagar, Sarojini Road, North Avenue, Santa Cruz West, Mumbai – 400054.

... Petitioner

VERSUS

- 1. Union of India**, through Secretary, Ministry of Home Affairs, North Block, Central Secretariat, New Delhi, Delhi 110001.
- 2. State of Uttar Pradesh**, represented by its Chief Secretary, 1st Floor, Room No. 110, Lalbahadur Sastri Bhawan, Uttar Pradesh Secretariat, Lucknow-226001

3. **State of Haryana**, represented by its Chief Secretary,
Room No. 4, 4th Floor, Haryana Civil Secretariat, Sector-1
Chandigradi-160019
4. **State of Gujarat**, represented by its Chief Secretary,
Block No. 1, 3rd Floor New Sachivalaya, Gandhi Nagar–
382010
5. **State of Jharkhand**, represented by its Chief Secretary,
Project Bhawan, I Floor, Dhurwa, Ranchi–834004
6. **State of National Capital Territory of Delhi**,
represented by its Chief Secretary, Players Building, I. P.
Estate, Delhi
7. **State of Rajasthan**, represented by its Chief Secretary,
Government Secretariat, Jaipur–302005
8. **State of Jammu and Kashmir**, represented by its Chief
Secretary, Room No. 2/7, 2nd Floor, Main Building, Civil
Secretariat, Jammu-180001 **and** Room No. 307, 3rd Floor,
Civil Secretariat, Srinagar-190001
9. **State of Karnataka**, represented by its Chief Secretary,
Secretariat, M. S. Building, Vidana Soudha, Bangalore–
560001
10. **State of Madhya Pradesh**, represented by its Chief
Secretary, Mantralaya, Bhopal-462003

- 11. State of Maharashtra**, represented by its Chief Secretary,
Room No. 518, 5th Floor, Madame Cama Road, Mumbai–
400032
- 12. State of Punjab**, represented by its Chief Secretary,
Room No 28, 6th Floor, Punjab Civil Secretariat, Pin–
160019
- 13. State of Assam**, represented by its Chief Secretary,
Assam Secretariat, C Block, 3rd Floor, Dispur, Guwahati–
781006
- 14. State of West Bengal**, represented by its Chief Secretary,
Nabanna, 13th Floor, 325, Sarat Chatterjee Road,
Mandirtala Shibpur, Howrah-711102
- 15. State of Nagaland**, represented by its Chief Secretary,
Civil Secretariat, Kohima-797004, Nagaland
- 16. State of Himachal Pradesh**, represented by its Chief
Secretary, H. P. Secretariat, Shimla-171002
- 17. State of Manipur**, represented by its Chief Secretary,
Manipur Secretariat, South Block Imphal-795001
- 18. State of Andhra Pradesh**, represented by its Chief
Secretary, L Block, 7th Floor, A. P. Secretariat,
Hyderabad-500022
- 19. State of Kerala**, represented by its Chief Secretary, Govt.
Secretariat, Thiruvananthapuram-695001

20. State of Tamil Nadu, represented by its Chief Secretary,
Secretariat, Chennai-600009

21. State of Bihar, represented by its Chief Secretary, Main
Secretariat, Patna-800015

... Respondents

All respondents are contesting respondents

**WRIT PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION SEEKING ISSUEANCE OF SPECIFIC
GUIDELINES AND/OR IN RESPECT OF TARGETED
LYNCHING**

To,

The Hon'ble the Chief Justice of India

And His Companion Justices

of the Supreme Court of India.

The Special Leave Petition of
the Petitioner above named

MOST RESPECTFULLY SHEWETH:

1. The present Writ Petition under Article 32 of the Constitution of India is being filed by the Petitioner to enforce fundamental rights, particularly the Right to Life (Article 21) & Right to Equality (Article 14) guaranteed by the Constitution. The Petitioner is a public spirited individual, and is the great-grandson of Mahatma Gandhi, father of the nation. The Petitioner is a deep believer in the life, philosophy and teachings of Bapu. He

has endeavored throughout his life to promote the life and teachings of Bapu. He shares the values of justice, equality, kindness, non-violence and compassion enshrined in the teachings of Bapu as well as the values of equality and social justice enshrined in the Constitution of India. In March 2005, he led the 75th anniversary re-enactment of the Dandi March. From 2007 to 2012, he was the Goodwill Ambassador of the CISRI-ISP Intergovernmental Institution for the use of Microalgae Spirulina Against Malnutrition.

ARRAY OF PARTIES

2. The Petitioner is a citizen of India, working as a Writer, Consultant, with annual income of about Rs. 8,00,000/- per annum, R/o 9 Sukhramgruha, 2nd floor, Sir Vitthaldas Nagar, Sarojini Road, North Avenue, Santa Cruz West, Mumbai – 400054. The email address of the Petitioner is tushar@mahatma.org.in and mobile no. +91-9821336617. A true copy of the PAN Card of the Petitioner bearing PAN No. ABBPG2978F is attached herewith and marked as **Annexure P-1** at pages **46**
3. The Petitioner does not have any personal interest or any persona gain or private motive or any other oblique reason in filing this Writ Petitioner in Public Interest. 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.

4. The Respondent no. 1 is the Union of India, represented by Ministry of Home Affairs, which is the the appropriate ministry dealing with safeguarding the fundamental rights of the citizens.
5. The Respondent no. 2 is the State of Uttar Pradesh, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
6. The Respondent no. 3 is the State of Haryana, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
7. The Respondent no. 4 is the State of Gujarat, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
8. The Respondent no. 5 is the State of Jharkhand, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.

9. The Respondent no. 6 is the State of National Capital Territory of Delhi, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
10. The Respondent no. 7 is the State of Rajasthan, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
11. The Respondent no. 8 is the State of Jammu and Kashmir, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
12. The Respondent no. 9 is the State of Karnataka, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
13. The Respondent no. 10 is the State of Madhya Pradesh, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
14. The Respondent no. 11 is the State of Maharashtra, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.

- 15.** The Respondent no. 12 is the State of Punjab, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
- 16.** The Respondent no. 13 is the State of Assam, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
- 17.** The Respondent no. 14 is the State of West Bengal, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
- 18.** The Respondent no. 15 is the State of Nagaland, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
- 19.** The Respondent no. 16 is the State of Himachal Pradesh, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
- 20.** The Respondent no. 17 is the State of Manipur, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.

- 21.** The Respondent no. 18 is the State of Andhra Pradesh, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
- 22.** The Respondent no. 19 is the State of Kerela, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
- 23.** The Respondent no. 20 is the State of Tamil Nadu, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
- 24.** The Respondent no. 21 is the State of Bihar, represented by its Chief Secretary, the appropriate authority concerned with safeguarding the fundamental rights of its citizens.
- 25.** The Petitioner espouses the cause of safeguarding the fundamental rights of the religious and oppressed minority guaranteed under Article 21 and Article 14 of the Constitution.
- 26.** All the Respondents referred to hereinabove are “State” within the meaning of Article 12 of the Constitution and hence amenable to writ jurisdiction under Article 31 of the Constitution.

27. That the concerned government authority was not moved for any relief sought in this Petition, since the issue involved herein concerns to about 20 state authorities. Therefore, it was not feasible to move the concerned state governments for an immediate and effective relief. Thus, this Hon'ble Court is moved through this present Petition.

FACTS OF THE CASE

28. The brief facts that give rise to the present Writ Petition are as follows:

29. The Petitioner firmly believes that the Indian constitution guarantees life and liberty, justice and equality for all persons. Therefore, he has moved this Writ Petition under Article 32 of the Constitution of India, which seeks to invoke the most salient fundamental right, the right to life guaranteed under Article 21. The petition pertains to the ongoing incidents of lynchings/extrajudicial killings that have assumed dangerous proportions throughout the country. A pattern is visible in these incidents of lynching/extra-judicial murders wherein members of religious minorities, particularly Muslims and oppressed caste groups such as Dalits have primarily been the targets. Many of these lynchings have been carried out by vigilante groups, which are engaging in illegal actions in the name of 'Cow Protection'.

30. It is humbly submitted that over the last couple of years, starting with the lynching of 'Akhlaq' in Dadri merely on the suspicion of him storing beef, these incidents have only increased in frequency. A detailed list providing the facts and circumstances of these lynching attacks as well as the name of victims is attached and marked herewith as **ANNEXURE P-2** at pages **47** to **61**. Although this list is not exhaustive, it should be noted that a total of atleast 70 incidents mostly enabled by vigilante groups have been reported across the states of Maharashtra, Gujarat, Uttar Pradesh, Rajasthan, Jharkhand, Haryana, Karnataka, Jammu & Kashmir, Delhi etc. Therefore, these are not isolated incidents but have become quite frequent over the past two years. These are mostly targeted against Muslims and Dalits. Some of the lynching incidents reported in various news paper articles that give rise to the Petition are as follows:

- 1)** A true typed copy of the news article titled "*Cow slaughter reports trigger violence in Punjab town*" dated 11.06.2012 reported in The Hindu is attached herewith and marked as **Annexure P-3** at pages **62** to **63**.
- 2)** A true typed copy of the news article titled "*Mobs against cow slaughter attack vehicles, police*" dated

30.08.2013 reported in Business Standard in Business Standard is attached herewith and marked as **Annexure P-4** at pages **64** to **66**.

- 3)** A true typed copy of the news article titled "*Muslim meat sellers beaten up, forced to flee Gurgaon village on Delhi border*" dated 16.08.2014 reported in The Hindu is attached herewith and marked as **Annexure P-5** at pages **67** to **68**.
- 4)** A true typed copy of the news article titled "*Mob drags alleged rapist out of jail in Nagaland, thrashes him to death*" dated 06.03.2015 reported in Times of India is attached herewith and marked as **Annexure P-6** at pages **69** to **70**.
- 5)** A true typed copy of the news article titled "*Accused in lynching of man in Rajasthan still remain free*" dated 01.11.2015 reported in The Hindu is attached herewith and marked as **Annexure P-7** at pages **71** to **73**.
- 6)** A true typed copy of the news article titled "*Muslim techie beaten to death in Pune, 7 men of Hindu outfit held*" dated 04.06.2014 reported in The Indian Express is attached herewith and marked as **Annexure P-8** at pages **74** to **76**.

- 7) A true typed copy of the news article titled “*3 suspected cattle thieves beaten to death in Dadri, truck set ablaze*” dated 03.08.2015 reported in The Indian Express is attached herewith and marked as **Annexure P-9** at pages **77** to **79**.
- 8) A true typed copy of the news article titled “*Angry East Delhi residents stop trucks carrying cattle, pelt stones at drivers*” dated 31.08.2015 reported in The Indian Express is attached herewith and marked as **Annexure P-10** at pages **80** to **81**.
- 9) A true typed copy of the news article titled “*Dadri: Outrage after mob lynches man for allegedly consuming beef*” dated 25.12.2015 reported in The Indian Express is attached herewith and marked as **Annexure P-11** at pages **82** to **86**.
- 10) A true typed copy of the news article titled “*Bajrang Dal attacks cattle trader in Karnataka*” dated 09.10.2015 reported in Hindustan Times is attached herewith and marked as **Annexure P-12** at pages **87** to **88**.
- 11) A true typed copy of the news article titled “*Jammu and Kashmir trucker dies, CM Mufti Mohammad blames ‘politics of hate’*” dated 19.10.2015 reported in

The Indian Express is attached herewith and marked as **Annexure P-13** at pages **89** to **94**.

- 12)** A true typed copy of the news article titled "*Cow slaughter reports trigger in mainpuri, 21 arrested*" dated 10.10.2015 reported in The Hindu is attached herewith and marked as **Annexure P-14** at pages **95** to **97**.
- 13)** A true typed copy of the news article titled "*Tension breaks in Mainpuri over cows slaughter rumours*" dated 10.10.2015 reported in The Indian Express is attached herewith and marked as **Annexure P-15** at pages **98** to **100**.
- 14)** A true typed copy of the news article titled "*Lynching of U. P. man: Himachal police book case*" dated 17.10.2015 reported in The Hindu is attached herewith and marked as **Annexure P-16** at pages **101** to **103**.
- 15)** A true typed copy of the news article titled "*BJP MLAs thrash Independent legislator Engineer Rashid inside J&K Assembly for hosting beef party*" dated 08.10.2015 reported in News 18 is attached herewith and marked as **Annexure P-17** at pages **104** to **105**.

- 16)** A true typed copy of the news article titled *"Headmaster lynched for 'stealing cow'; shutdown call in Manipur"* dated 04.11.2015 reported in Hindustan Times is attached herewith and marked as **Annexure P-18** at pages **106** to **108**.
- 17)** A true typed copy of the news article titled *"Dadri like incident reported again, this time in Palwal"* dated 03.12.2015 reported in The Hindu is attached herewith and marked as **Annexure P-19** at pages **109** to **111**.
- 18)** A true typed copy of the news article titled *"Cow Vigilante' team shoots dead migrant in Karnal"* dated 09.12.2015 reported in Hindustan Times is attached herewith and marked as **Annexure P-20** at pages **112** to **114**.
- 19)** A true typed copy of the news article titled *" Muslim couple on train beaten in MP over beef suspicion"* dated 15.01.2016 reported in The Indian Express is attached herewith and marked as **Annexure P-21** at pages **115** to **118**.
- 20)** A true typed copy of the news article titled *"Jharkhand: Two cattle traders hanged from tree, gau raksha activist among 5 held"* dated 21.03.2016

reported in The Indian Express is attached herewith and marked as **Annexure P-22** at pages **119** to **123**.

21) A true typed copy of the news article titled "*UP cattle transporter's murder is family's mystery*" dated 24.05.2016 reported in The Indian Express is attached herewith and marked as **Annexure P-23** at pages **124** to **129**.

22) A true typed copy of the news article titled "*In the name of the cow: Murder, flogging, humiliation of Muslims, Dalits*" dated 05.08.2016 reported in The Indian Express is attached herewith and marked as **Annexure P-24** at pages **130** to **134**.

23) A true typed copy of the news article titled "*24-year-old ITI student lynched in Bengal, one arrested*" dated 10.05.2016 reported in The Times of India is attached herewith and marked as **Annexure P-25** at pages **135** to **136**.

24) A true typed copy of the news article titled "*In the name of the cow: Murder, flogging, humiliation of Muslims, Dalits*" dated 05.08.2016 reported in The Indian Express is attached herewith and marked as **Annexure P-26** at pages **137** to **141**.

25) A true typed copy of the news article titled "*Two 'beef transporters' forced to eat cow dung by*

gau rakshaks" dated 29.06.2016 reported in The Indian Express is attached herewith and marked as **Annexure P-27** at pages **142** to **145**.

26) A true typed copy of the news article titled "*Four Dalit men stripped, beaten by cow protection vigilantes in Gujarat*" dated 12.07.2016 reported in Hindustan Times is attached herewith and marked as **Annexure P-28** at pages **146** to **147**.

27) A true typed copy of the news article titled "*Dalit family attacked by Bajrang Dal over beef, alleges Karnataka rights group*" dated 23.07.2016 reported in Hindustan Times is attached herewith and marked as **Annexure P-29** at pages **148** to **149**.

28) A true typed copy of the news article titled "*Gujarat: 7 of Dalit family beaten up for skinning dead cow*" dated 20.07.2016 reported in the Indian Express is attached herewith and marked as **Annexure P-30** at pages **150** to **152**.

29) A true typed copy of the news article titled "*In the name of the cow: Murder, flogging, humiliation of Muslims, Dalits*" dated 05.08.2016 reported in The Indian Express is attached herewith and marked as **Annexure P-31** at pages **153** to **157**.

- 30)** A true typed copy of the news article titled "*Muslim women beaten up in Madhya Pradesh over beef rumours*" dated 27.07.2016 reported in The Indian Express is attached herewith and marked as **Annexure P-32** at pages **158** to **159**.
- 31)** A true typed copy of the news article titled "*In the name of the cow: Murder, flogging, humiliation of Muslims, Dalits*" dated 05.08.2016 reported in The Indian Express is attached herewith and marked as **Annexure P-33** at pages **160** to **164**.
- 32)** A true typed copy of the news article titled "*In Andhra, Dalits Stripped, Thrashed, Tied to Tree for Skinning Dead Cow*" dated 10.08.2016 reported in NDTV is attached herewith and marked as **Annexure P-34** at pages **165** to **166**.
- 33)** A true typed copy of the news article titled "*Woman and girl gang-raped as punishment for eating beef*" dated 12.09.2016 reported in The Telegraph is attached herewith and marked as **Annexure P-35** at pages **167** to **169**.
- 34)** A true typed copy of the news article titled "*Gujarat: Man thrashed by suspected cow vigilantes, dies in Ahmedabad*" dated 17.09.2016 reported in The

Indian Express is attached herewith and marked as **Annexure P-36** at pages **170** to **171**.

35) A true typed copy of the news article titled "*Family harassed for 'cow slaughter'*" dated 16.09.2016 reported in The Hindu is attached herewith and marked as **Annexure P-37** at pages **172** to **173**.

36) A true typed copy of the news article titled "*Duo Beaten up by Cow Vigilantes*" dated 16.09.2016 reported in Hindustan Times is attached herewith and marked as **Annexure P-38** at pages **173A** to **173C**.

37) A true typed copy of the news article titled "*Gujarat: Pregnant Dalit woman, others beaten for refusing to clear cow carcass*" dated 25.09.2016 reported in Hindustan Times is attached herewith and marked as **Annexure P-39** at pages **174** to **175**.

38) A true typed copy of the news article titled "*Rajasthan: Five men assaulted by gau rakshaks in Alwar, 1 dead*" dated 05.04.2017 reported in The Indian Express is attached herewith and marked as **Annexure P-40** at pages **176** to **178**.

39) A true typed copy of the news article titled "*Kerala: 14 BJP-RSS men booked for attack over cow slaughter*" dated 19.04.2017 reported in The

Indian Express is attached herewith and marked as **Annexure P-41** at pages **179** to **180**.

40) A true typed copy of the news article titled "*Jammu and Kashmir: 11 arrested after attack on nomadic families*" dated 24.04.2017 reported in The Indian Express is attached herewith and marked as **Annexure P-42** at pages **181** to **183**.

41) A true typed copy of the news article titled "*Trucker played dead to escape lynching*" dated 24.04.2017 reported in The Times of India is attached herewith and marked as **Annexure P-43** at pages **184** to **186**.

42) A true typed copy of the news article titled "*Cow vigilantes attack cops in Giridih*" dated 25.04.2017 reported in The Indian Express is attached herewith and marked as **Annexure P-44** at pages **187** to **188**.

43) A true typed copy of the news article titled "*Gau rakshaks attack three tribals in Udupi over 'cow slaughter'*" dated 28.04.2017 reported in The Indian Express is attached herewith and marked as **Annexure P-45** at pages **189** to **190**.

44) A true typed copy of the news article titled "*Mob lynches two suspected cow thieves in Assam*" dated 30.04.2017 reported in Hindustan Times is attached

herewith and marked as **Annexure P-46** at pages **191 to 193**.

45) A true typed copy of the news article titled "*Bhopal: District president of Rashtriya Hindu Sena drags youth behind SUV, kills him*" dated 08.05.2017 reported in India Today is attached herewith and marked as **Annexure P-47** at pages **194 to 195**.

46) A true typed copy of the news article titled "*Cow vigilantism: One more held in connection with assault on farmers*" dated 08.05.2017 reported in The Indian Express is attached herewith and marked as **Annexure P-48** at pages **196 to 197**.

47) A true typed copy of the news article titled "*Five people thrashed in Aligarh for slaughtering buffalo*" dated 12.05.2017 reported in The Tribune is attached herewith and marked as **Annexure P-49** at pages **198 to 199**.

48) A true typed copy of the news article titled "*Madhya Pradesh: Cow vigilantes brutally assault man in Ujjain; two arrested*" dated 14.05.2017 reported in The Indian Express is attached herewith and marked as **Annexure P-50** at pages **200 to 201**.

49) A true typed copy of the news article titled "*Jharkhand lynching: Anger brews in village of dead,*

Muslim protesters clash with police" dated 21.05.2017 reported in The Indian Express is attached herewith and marked as **Annexure P-51** at pages **202** to **205**.

50) A true typed copy of the news article titled "*Gau Rakshaks' In Malegaon Beat Up Two Meat Traders, Force Them to Chant 'Jai Shri Ram*" dated 29.05.2017 reported in Huffpost is attached herewith and marked as **Annexure P-52** at pages **206** to **208**.

51) A true typed copy of the news article titled "*IIT-Madras scholar beaten up for eating beef during protest*" dated 30.05.2017 reported in The Hindu is attached herewith and marked as **Annexure P-53** at pages **209** to **210**.

52) A true typed copy of the news article titled "*Tamil Nadu officials taking cows for breeding programme attacked in Rajasthan*" dated 12.06.2017 reported in The Indian Express is attached herewith and marked as **Annexure P-54** at pages **211** to **212**.

53) A true typed copy of the news article titled "*Policemen on cow slaughter raid attacked*" dated 14.06.2017 reported in The Hindu is attached herewith and marked as **Annexure P-55** at pages **213** to **214**.

- 54)** A true typed copy of the news article titled "*Rajasthan officials lynch man for stopping them from taking photos of women defecating in open*" dated 16.06.2017 reported in The Hindu is attached herewith and marked as **Annexure P-56** at pages **215 to 216**.
- 55)** A true typed copy of the news article titled "*Cow Vigilantes Strip, Tie and Beat up 'Cattle Smugglers' in Etah*" dated 20.06.2017 reported in News18 is attached herewith and marked as **Annexure P-57** at pages **217 to 219**.
- 56)** A true typed copy of the news article titled "*Three Lynched in West Bengal Over Alleged Cow Theft*" dated 24.06.2017 reported in News18 is attached herewith and marked as **Annexure P-58** at pages **220 to 221**.
- 57)** A true typed copy of the news article titled "*A boy called Junaid*" dated 02.07.2017 reported in The Indian Express is attached herewith and marked as **Annexure P-59** at pages **222 to 230**.
- 58)** A true typed copy of the news article titled "*Nowhatta mob lynching: DySP Mohammed Ayub Pandith beaten to death near Jamia Masjid*" dated 23.06.2017

reported the Indian Express in is attached herewith and marked as **Annexure P-60** at pages **231** to **233**.

59) A true typed copy of the news article titled "*Uttar Pradesh: Cleric shot dead by unidentified persons while praying in the mosque*" dated 23.06.2017 reported in Hindustan Times is attached herewith and marked as **Annexure P-61** at pages **234** to **236**.

60) A true typed copy of the news article titled "*In Jharkhand, man beaten up, his house set on fire after dead cow found outside*" dated 28.06.2017 reported in The Indian Express is attached herewith and marked as **Annexure P-62** at pages **237** to **238**.

61) A true typed copy of the news article titled "*Man accused of carrying beef beaten to death by 100-strong mob in Jharkhand*" dated 30.06.2017 reported in Hindustan Times is attached herewith and marked as **Annexure P-63** at pages **239** to **241**.

62) A true typed copy of the news article titled "*Cow vigilantes stop vehicles carrying cattle, 'beat up' drivers near Guwahati*" dated 02.07.2017 reported in Hindustan Times is attached herewith and marked as **Annexure P-64** at pages **242** to **244**.

63) A true typed copy of the news article titled "*Men Transporting Buffaloes Thrashed by Mob In*

Delhi" dated 08.07.2017 reported in NDTV is attached herewith and marked as **Annexure P-65** at pages **245** to **247**.

64) A true typed copy of the news article titled " *BJP leader beaten for carrying 'beef'*" dated 13.07.2017 reported in The Hindu is attached herewith and marked as **Annexure P-66** at pages **248** to **249**.

65) A true typed copy of the news article titled " *alit youth stabbed for kicking cow blocking road*" dated 20.07.2017 reported in The Times of India is attached herewith and marked as **Annexure P-67** at pages **250** to **251**.

66) A true typed copy of the news article titled "*Mentally unwell man beaten up in Jharkhand over suspected cow theft bid*" dated 21.07.2017 reported in The Indian Express is attached herewith and marked as **Annexure P-68** at pages **252** to **253**.

67) A true typed copy of the news article titled "*Three thrashed in Bihar on suspicion of carrying beef*" dated 03.08.2017 reported in The Tribune is attached herewith and marked as **Annexure P-69** at pages **254** to **255**.

31. These frequent episodes of lynching demonstrate that the state has not only completely failed to protect its

citizens but also refused to take action against the perpetrators of these crimes. In some cases, it has been reported that the police refuse to register FIRs when members of the victim's family approach them. It was only subsequent to pressure from media and other civil society groups that an FIR is even registered in these cases. This abdication of their duty to protect by the Government, local administration and police officials has only emboldened these vigilante groups, who are instigating these lynchings further.

32. By failing to prevent the vigilante groups from lynching / extra judicially killing citizens of this country, the Government has violated the fundamental guarantees provided in the Constitution of India, including Right to Life (Article 21) and Right to Equality (Article 14).

33. These frequent lynchings are also threatening the rule of law and generally emboldening groups of persons to take the law into their own hands. Moreover, these incidents are acting as triggers for communal polarization of the

society, and if not halted effectively and immediately will have disastrous consequences on the social fabric of the country.

34. In light of the aforesaid facts, the following issues have arisen:

- 1)** Whether the right to life and liberty guaranteed under Article 21 of citizens can be so easily taken away by the targeted lynchings against religious minorities particularly Muslims, and Dalits?
- 2)** Whether or not the state has a responsibility to protect the life and liberty of its citizens?
- 3)** Whether targeted killings of the minorities and oppressed caste and communities are violative of Article 14 & 21 of the Indian Constitution?
- 4)** Whether or not the refusal to file FIRs on the pretext that a mob was responsible for the killings/lynching, is violative of article 14 and 21 of the Indian Constitution?
- 5)** Whether or not speedy and effective investigation should be launched into these targeted killings by the government in all these cases?
- 6)** Whether or the victims and their families are entitled to substantial compensation for violation of their

fundamental rights under article 14 and 21 of the Indian Constitution?

- 7) Whether or not immediate preventive steps should be taken by the Central and state governments to put a complete stop to the illegal activities of these vigilante groups that are consistently violating the constitution and indulging in criminal activities?

35. GROUNDS

- A.** That the frequent lynching/extrajudicial killings have resulted in the violation of Article 14 and 21 of the constitution. Many of the cases of lynching have either led to instant death of the victims, or them sustaining serious injuries to which they have succumbed later. In some of the cases the victims have not died but have sustained serious injuries. Even in the last two weeks, that is, after the matter was listed before this court that is 21.07.2017, cases of lynching where victims have sustained serious injuries have been reported.
- B.** That therefore the state has clearly derogated from its obligation to protect and safeguard the citizens of this country. This Hon'ble Court in the case of **Archbishop Raphael Cheenath S.V.D. Vs. State of Orissa, (2016) 9 SCC 682** upheld the principle that minorities must be protected at all cost. This Hon'ble Court stated:

“17. Finally, we must remind ourselves of the observations of this Court in *Ahmedabad St. Xavier's College Society v. State of Gujarat* [*Ahmedabad St. Xavier's College Society v. State of Gujarat*, (1974) 1 SCC 717: 1 SCEC 125 : AIR 1974 SC 1389] , though made in the context of rights of minorities to set up and administer institutions for imparting education, are quite apt even in the present context: (SCC p. 781, para 89)

“89. ...The minorities are as much children of the soil as the majority and the approach has been to ensure that nothing should be done as might deprive the minorities of a sense of belonging, of a feeling of security, of a consciousness of equality and of the awareness that the conservation of their religion, culture, language and script as also the protection of their educational institutions is a fundamental right enshrined in the Constitution. ... It can, indeed, be said to be an index of the level of civilisation and catholicity of a nation as to how far their minorities feel secure and are not subject to any discrimination or suppression.”

- C. That in the above judgment of **Archbishop Raphael Cheenath S.V.D. Vs. State of Orissa** [*Supra*], this

Hon'ble Court also emphasized the responsibility of the state to not only protect and prevent such targeted violence but also launch effective and speedy investigations into such incidents wherever they happen. This Court further emphasized that speedy trials should be conducted in these cases so that these perpetrators can be brought to justice and the victims and their families can feel a sense of closure.

- D.** That the above principles have been upheld in a plethora of judgments of this court as well as the various High Courts. Most notably in ***Bhajan Kaur Vs. Delhi Administration, 1996 SCC OnLine Del 484*** while discussing the Right to Life particularly in the context of minorities, the Delhi High court held that the responsibility to protect not only included acts of commission but also of omission when the state failed to act in time to prevent such violence from taking place. The Delhi High Court held:

“9. The sweep of Article 21 is wide and far reaching. Article 21 is not to be restricted to the violation of right to life and liberty committed by the State alone. That right is also to be protected and safeguarded by the State from being violated or interfered with by private individuals... .

10. ...The conduct of any person or group of persons has to be controlled by the State for the lofty purpose enshrined in Article 21 of the Constitution. It is the duty of the State to create a climate where the cleavage between members of the society belonging to different faiths, caste and creed are eradicated. The State must act in time so that the precious lives of the people are not destroyed or threatened. Otherwise, Article 21 will remain a paper guarantee. Time is long overdue for adopting measures that have more than a hortatory effect in enforcing Article 21 of the Constitution. The State cannot adopt a “do nothing attitude. ... The State has to enforce minimum standards of civilized behaviour of its citizens so that the life, liberty, dignity and worth of an individual is protected and preserved and is not jeopardised or endangered. If it is not able to do all that then it cannot escape the liability to pay adequate compensation to the family of the person killed during riots as his or her life has been extinguished in clear violation of Article 21 of the Constitution which mandates that life cannot be

taken away except according to the procedure established by law”.

- E.** That the constitutional jurisprudence around the Right to Life has only evolved further since ***Bhajan Kaur [Supra]*** and it can now be said that the Right to credible investigations, prosecution of the guilty and reparative justice are firmly established within Indian Law. In a recent judgment of this court in ***Suresh & Anr Vs. State of Haryana, (2015) 2 SCC 227***, this Hon’ble Court extensively examined Indian and international Jurisprudence and upheld International Principles of reparation and Right of Access to Justice. This Hon’ble Court held that

“14. In Abdul Rashid v. State of Odisha [2013 SCC OnLine Ori 493 : ILR (2014) 1 Cut 202] , to which one of us (Goel, J.) was party, it was observed: (SCC OnLine Ori paras 6-10) “6. Question for consideration is whether the responsibility of the State ends merely by registering a case, conducting investigation and initiating prosecution and whether apart from taking these steps, the State has further responsibility to the victim. Further question is whether the Court has legal duty to award

compensation irrespective of conviction or acquittal. When the State fails to identify the accused or fails to collect and present acceptable evidence to punish the guilty, the duty to give compensation remains. Victim of a crime or his kith and kin have legitimate expectation that the State will punish the guilty and compensate the victim. There are systemic or other failures responsible for crime remaining unpunished which need to be addressed by improvement in quality and integrity of those who deal with investigation and prosecution, apart from improvement of infrastructure but punishment of guilty is not the only step in providing justice to the victim. Victim expects a mechanism for rehabilitative measures, including monetary compensation. Such compensation has been directed to be paid in public law remedy with reference to Article 21.”

- F.** That this Court in the ***Extra-Judicial Execution Victim Families Assn. Vs. Union of India, (2016) 14 SCC 536*** has ordered investigation and prosecution in cases of Extra Judicial Killings in Manipur. The court noted the seriousness of such crimes and the need to be punished the persons responsible so that the victims feels a sense

of Justice and the convictions act as a deterrent for future crimes.

- G.** That the state cannot shy way from its responsibility to safeguard and protect the life and liberty of each of its citizens. Thus, it is for the state functionaries to evolve methods and strategies to safeguard every citizen's right as guaranteed under Article 21.
- H.** That the State is obligated by virtue of Article 21 of the Constitution to protect life and personal liberty of every person present in the jurisdiction of that State. The Constitution has conferred a negative obligation on the State, where in the State is to act in a manner that no person is deprived of his life and personal liberty except according to the procedure established by law.
- I.** That it is the duty and responsibility of the state to safeguard and protect each individual from any infringement on their fundamental right guaranteed under Article 21 of the Constitution. Each such act of infringement that is in violation of Article 21 of a person illustrates the failure of the State to safeguard the right guaranteed under the said article. This Hon'ble Court in ***Nilabati Behera Vs. State of Orissa & Ors., (1993) 2 SCC 746*** at para 20 has held that

“...the court is not helpless and the wide powers given to this Court by Article 32, which itself is a fundamental right, imposes a constitutional obligation on this Court to forge such new tools, which may be necessary for doing complete justice and enforcing the fundamental rights guaranteed in the Constitution, which enable the award of monetary compensation in appropriate cases, where that is the only mode of redress available”.

- J.** That therefore, such incidents of lynching also illustrate clear laxity on the part of the state functionaries to curb or prevent violation of right guaranteed under Article 21, where the state has an obligation to protect and safeguard the said right. That such rampant acts of targeted violence against individuals belonging to a particular community are a result of weakness, laxity and indifference of the state authorities in enforcement of law and order.
- K.** That the state is duty bound to pay compensation to the family members of any individual who has lost his life due to targeted lynching, hate crime or communal violence, as this gross violation of the right under guaranteed art. 21 could be prevented had the state authorities/agencies not

been lacking in their role to safeguard the right to life as guaranteed under the said article.

- L.** That the judicial trend is to award substantial compensation for deprivation of right to life and liberty as guaranteed under Article 21. This Hon'ble Court in ***Nilabati Behera [Supra]***, at para 21 has observed that

"...Article 9(5) of the International Covenant on Civil and Political Rights, 1966 which indicates that an enforceable right to compensation is not alien to the concept of enforcement of a guaranteed right. Article 9(5) reads as under:

"Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation".

Further, this Court in ***D. K. Basu Vs. State of West Bengal, (1997) 1 SCC 416***, at para held that

"...the Court, where the infringement of the fundamental right is established, therefore, cannot stop by giving a mere declaration. It must proceed further and give compensatory relief, not by way of damages as in a civil action but by way of compensation under the public law jurisdiction for the wrong done, due to breach of public duty by the State of not protecting the fundamental right to

life of the citizen. To repair the wrong done and give judicial redress for legal injury is a compulsion of judicial conscience". Further, at para 42 held that "...There is indeed no express provision in the Constitution of India for grant of compensation for violation of a fundamental right to life, nonetheless, this Court has judicially evolved a right to compensation in cases of established unconstitutional deprivation of personal liberty or life...", Further at para 47, it has held that "A similar approach of redressing the wrong by award of monetary compensation against the State for its failure to protect the fundamental rights of the citizen has been adopted by the Courts of Ireland, which has a written constitution, guaranteeing fundamental rights, but which also like the Indian Constitution contains no provision of remedy for the infringement of those rights. That has, however, not prevented the Courts in Ireland from developing remedies, including the award of damages, not only against individuals guilty of infringement, but against the State itself."

This Court in ***Mohd. Haroon & Ors. Vs. Union of India & Anr.*, (2014) 5 SCC 252**, enhanced compensation given to the victims and families of victims of the Muzaffarnagar communal violence recognizing the failure of the State in discharging its responsibility to safeguard the fundamental rights of the individuals. Further, the Delhi High Court in ***Kamla Devi Vs. Government of NCT of Delhi*, 2004 SCC OnLine 72** at para 21 has held that

“21. The principles which emerge can be summarized as follows:—

1. Whenever an innocent citizen is killed as a result of a crime, particularly when it is an act of terror or communal violence or a case of custodial death, the State would have failed in its public duty to ensure the guarantee enshrined in Article 21 of the Constitution.”

M. That the families of the victims of such acts of blatant violation of the right to life and liberty as guaranteed under art. 21 must be compensated by the state, in light of various judgments of the Supreme Court and the High Courts. That the state cannot shy away from compensating the victims or the families of the victims of such targeted violence and lynching. Targeted lynching of individuals belonging to a particular community can only

occur when there is a clear inability on the part of state to enforce law and order.

N. That where there are incidents occurring in the State in relation to hate crime, communal violence etc, the State is obligated to take measures and put an end to such incidents and provide security to the community that is targeted and hated. If such incidents are frequent occurrences in the State, then it is clear that the State is negligent and has failed in providing protection to persons under Article 21.

O. That the Supreme Court in ***National Human Rights Commission Vs. State of Arunachal Pradesh & Anr, (1996) 1 SCC 742***, at para 20 has held that

“...Thus the State is bound to protect the life and liberty of every human being, be he a citizen or otherwise, and It cannot permit any body or group of persons, e.g., the AAPSU, to threaten the Chakmas to leave the State, failing which they would be forced to do so. No State Government worth the name can tolerate such threats by one group of persons to another group of persons; it is duty-bound to protect the threatened group from such assaults and if it fails to do so, it will fail to perform its constitutional as well as statutory

obligations. Those giving threats would be liable to be dealt with in accordance with law. The State Government must act impartially and carry out its legal obligations to safeguard the life, health and well-being of Chakmas residing in the State without being inhibited by local politics”.

36. The Petitioner has filed this Petition for directions to protect and safeguard fundamental rights of religious and oppressed minorities under Article 21 and 14 of the Constitution, since the Petitioner has no alternate efficacious remedy but to approach this Hon’ble Court under Article 32 of the Constitution of India for the reliefs prayed for herein.
37. The Petitioner has for the first time filed this Petitioner in respect of the subject-matter, i.e., for issuance of directive in respect of safeguarding fundamental rights under Article 21 and 14 of religious and oppressed minorities, against the aforesaid Respondents in India.
38. That the Petition in Writ Petition (Civil) No. 764/2016 titled ***Tehseen Poonawala Vs. Union of India & Ors.***, and connected petitioner are pending before this Hon’ble Court and deal with the same subject matter.
39. That this Hon’ble Court has the jurisdiction to entertain and try this Petition.

- 40.** That the Petitioner craves leave to alter, amend or add to this Petition.
- 41.** That the Petitioner seeks leave to rely on documents, a list of which, along with true typed copies has been annexed to this Petition.
- 42.** That this Petition has been made bona fide and in the interest of justice.
- 43.** That the Petitioner has not filed any other Petition before this Hon'ble Court or before any other Court seeking the same relief.

PRAYER

In the facts and circumstances, it is most respectfully prayed that your Lordships may graciously be pleased to:

- a)** Issue a Writ, Order, or Direction in the nature of Mandamus to all Respondents to appoint Highway patrols consisting of police officials, who will regularly monitor and patrol the National and State Highways and ensure that incidents of lynchings do not happen;
- b)** Issue a Writ, Order, or Direction in the nature of Mandamus to all Respondents to ensure that the Highway Patrol efficiently and effectively prevent any vigilante groups or any private person or persons who are illegally stopping trucks / vehicles / creating roadblocks / or carrying out illegal checks on the Highways, and any

such person or persons must be immediately arrested and booked under the relevant sections of the IPC;

- c)** Issue a Writ, Order, or Direction in the nature of Mandamus to all Respondents to appoint a DySP level officer in each district who will be the point officer in that district for ensuring that no such incidents happen;
- d)** Issue a Writ, Order, or Direction in the nature of Mandamus to all Respondents to ensure that the designated DySP will identify and prepare a list of each of these self-styled cow vigilante groups in their jurisdiction, and ensure that no unlawful activities are carried out by these groups;
- e)** Issue a Writ, Order, or Direction in the nature of Mandamus to all Respondents to ensure that the legal proceedings initiated against the accused persons in all targeted lynching matters are made time bound;
- f)** Issue a Writ, Order, or Direction in the nature of Mandamus to all Respondents to ensure that registration of FIRs on receiving a complaint in respect of a targeted lynching is mandatory, and omission of the same will attract a fine of an appropriate amount as directed by this Hon'ble Court;
- g)** Issue a Writ, Order, or Direction in the nature of Mandamus to all Respondents to ensure registration of all

the cow protection groups mandatory with local administration (Tehsildar, BDO, SDM) and as such the District Magistrate of each district must maintain a register with the details of these groups;

- h)** Issue a Writ, Order, or Direction in the nature of Mandamus to all Respondents to ban all the illegal activities carried out by the self styled cow vigilante / protection groups;
- i)** Pass such other orders as may be deemed fit in the facts and circumstances of this case.

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

Drawn By:

Filed By:

Shadan Farasat, Adv

Warisha Farasat, Adv

Rudrakshi Deo, Adv

Shashi Pratap Singh, Adv

Place: New Delhi

Drawn On: _____.08.2017

SHADAN FARASAT

Filed On: _____.08.2017

ADVOCATE FOR PETITIONER