

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO 960 OF 2018

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

ASHWINI KUMAR UPADHYAY

...PETITIONER

VERSES

UNION OF INDIA & ANOTHER

...RESPONDENTS

PAPER BOOK

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(ADVOCATE FOR PETITIONER: R. D. UPADHYAY)

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PERFORMA FOR FIRST LISTING

Section: PIL

The case pertains to (Please tick / check the correct box):

- Central Act: The Constitution of India
- Section: Article 14, 15, 16, 19, 21 and 35A,
- Central Rule: N/A
- Rule No: N/A
- State Act: N/A
- Section: N/A
- State Rule: N/A
- Rule No: N/A
- Impugned Interim Order: N/A
- Impugned Final Order / Decree: N/A
- High Court: N/A
- Name of Judges: N/A
- Tribunal / Authority Name : N/A

1. Nature of Matter: Civil

2. (a) Petitioner / Appellant : Ashwini Kumar Upadhyay

(b) Email ID:

(c) Phone No:

3. (a) Respondent: Union of India and another

(b) Email ID: N/A

(c) Phone No: N/A

4. (a) Main Category: 08 PIL Matters

(b) Sub Category: 0812, Others

5. Not to be listed before: N/A

6. Similar/Pending matter: WP(C) 722 / 2014

7. Criminal Matters: N/A

(a) Whether accused / convicted has surrendered: N/A

(b) FIR / Complaint No: N/A

(c) Police Station: N/A

(d) Sentence Awarded: N/A

(e) Period of Sentence Undergone including period of detention/custody under gone: N/A

8. Land Acquisition Matters:

(a) Date of Section 4 Notification: N/A

(b) Date of Section 6 Notification: N/A

(c) Date of Section 17 Notification

9. Tax Matters: State the Tax Effect: N/A

10. Special Category: N/A

11. Vehicle No in case of motor accident claim matters): N/A

12. Decided Cases with Citation: N/A

Date: 14.08.2018

ADVOCATE FOR PETITIONER

(R. D. UPADHYAY)

Advocate-on-Record

SYNOPSIS

Addition or deletion of an Article amounts to amendment to the Constitution, which could be done only by the Parliament as per the procedure lay down in Article 368 of the Constitution, but Article 35A was never presented before the Parliament. It means the President of India had bypassed the Parliament. This confirms that the amending power of the Parliament under Article 368 was abridged in its application to the Jammu and Kashmir.

The classification created by the Article 35A suffers from violation of Articles 14, 15, 16, 19 and 21 of the Constitution. At present, Indian citizens cannot have the same rights and privileges as enjoyed by the permanent residents of Jammu and Kashmir. That apart, the industrial sector and the whole private sector also suffer due to the property ownership restrictions. Therefore, good doctors do not prefer to come to the State for the same reason.

The Article 35A gives a free hand to the State government to discriminate Indian citizens in arbitrary manner and give preferential treatment to some by trampling over others, since the non-residents of the Jammu & Kashmir are debarred from buying properties, getting a government job or voting in the elections.

The Article 35A facilitates the violation of the right of a woman to 'marry a man of her choice' by not giving her heirs any right to property, if she marries a man not holding PRC (Permanent Resident Certificate). PRC is not given to her children and thereby considering them unfit for inheritance – not given any right to such a woman's property even if she is a permanent resident of Jammu & Kashmir.

Article 35A facilitates the free and unrestrained violation of fundamental rights of those workers and settlers like Scheduled Caste and Scheduled Tribe people who have lived in J&K for generations. **Dalits and Valmiki**s who were brought to the State in 1950-60 were given Permanent Resident Certificates on the condition that they and their future generations could stay in the State only if they continued to be *safai-karmacharis* (scavengers). And even after six decades of service in the State, their children are *safai-karmacharis* and they have been denied the right to quit scavenging and choose any other profession.

The industrial sector and whole private sector suffers due to the property ownership restrictions. Good doctors and experienced engineers and teachers do not come to the State for the same reason. The Children of other States even do not get admission in the Medical, Engineering and Professional Colleges and University. Article 35A also ruins the status of West Pakistani refugees. Being Indian citizen, they are not stateless persons, but being non-permanent residents of J&K, they cannot enjoy the fundamental rights guaranteed under the Articles 14, 15, 16, 19 and 21 and the privileges, as being enjoyed by permanent residents of J& K. Article 35A gives a free hand to the State government to discriminate the citizens in arbitrary manner and give preferential treatment to some by trampling over others, since the non-residents of other States are debarred from buying properties, getting a government job or voting in the election. The issues to be decided by the Court are:

(i) Whether the powers of the President under the Article 370 are Executive or Legislative or Constitutional and by virtue of nature of powers, whether there are any express limitation upon such powers

while making any modification and in the matter of application of any Article to the State of J& K. **(ii)** Whether the powers of the President under Article 370 are not coextensive with the powers of Parliament under Article 368 and whether there is any distinction between the nature and width of powers of Parliament under Article 368 and nature and width of the powers of the President under Article 370? **(iii)** Whether the changes, modification or omission made in Article 16, 19, 35 and addition of Article 35A by the President while applying Part III in relation to the state of J&K are in the nature of substantial amendment / additions changing the entire constitutional scheme of Part III is the usurpation of powers of Parliament under Article 368 of the Constitution? **(iv)** Whether the impugned Article 35A, whereby the powers of Parliament to make law violating the fundamental rights have been transferred to the state Legislature and such a law having been rendered non-justiciable under law is beyond the powers of the President to make modification and restrictions under Article 370?

LIST OF DATES

14.05.1954: Article 35A was added to the Constitution through a Presidential Order without Parliament's approval.

14.08.2018: The President, by Executive Order, added Article 35A, though Article 370 does not confer powers to the President to amend the Constitution. Article 35A not only violates constitutional procedures established by law but also the fundamental right guaranteed under Articles 14, 15, 16, 19, 21 of the Constitution. But, the Executive has not repealed it till date. Hence, this PIL.

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO 960 OF 2018
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

Ashwini Kumar Upadhyay
S/o Sh. Suresh Chandra Upadhyay

...Petitioner

Verses

1. Union of India

Through the Secretary,
Ministry of Home Affairs,
North Block, New Delhi-110001,

2. The State of Jammu and Kashmir,

Through the Chief Secretary,
Civil Secretariat, Srinagar,
Jammu & Kashmir-190001,

.....Respondents

**PIL UNDER ARTICLE 32 SEEKING A DECLARATION THAT THE ARTICLE 35A IS
ARBITRARY AND CONTRARY TO ARTICLES 14, 15, 16, 19, 21 AND BASIC
STRUCTURE OF THE CONSTITUTION, HENCE, VOID AND INOPERATIVE.**

To,

THE HON'BLE CHIEF JUSTICE

& LORDSHIP'S COMPANION JUSTICES

OF HON'BLE SUPREME COURT OF INDIA

HUMBLE PETITION OF ABOVE-NAMED PETITIONER

THE MOST RESPECTFULLY SHOWETH AS THE UNDER:

- 1.** Petitioner is filing this writ petition as a PIL under Article 32 of the Constitution of India seeking a writ, order or direction or a writ in the nature of mandamus to declare that the Article 35A is arbitrary and contrary to the Articles 14, 15, 16, 19, 21 and basic structure of the Constitution of India. Hence, void and inoperative.
- 2.** Petitioner has not filed any other same or similar writ petition either in this Hon'ble Court or in any other High Court seeking same or similar directions as prayed in the instant writ petition.

- 3.** Petitioner's full name is Ashwini Kumar Upadhyay. Residence at: G-284, Govindpuram, Ghaziabad-201013, U.P. Ph No: 08800278866, Email: aku.adv@gmail.com, PAN: AAVPU7330G, AADHAAR: 659982174779. Annual Income is Rs. 3 Lakh. Petitioner is an Advocate, practices in this Hon'ble Court and a social-political activist, contributing his best to the development of socially-economically downtrodden Indian citizens.
- 4.** The cause of action accrued 14.05.1954 and every subsequent date when the Hon'ble President of India added the Article 35A to the Constitution through Presidential Order [The Constitution (Application to Jammu and Kashmir) Order, 1954] without Parliament's approval.
- 5.** The injury caused to the public because Article 35A is arbitrary and contrary to the Articles 14, 15, 16, 19 and 21. It facilitates violation of right of women to 'marry a man of her choice' by not giving the heirs any right to property, if woman marries a man of other States. Thereby, considering her children unfit for inheritance – not given any right to such a woman's property even if she is a permanent resident of J&K.
- 6.** Petitioner has no personal interest, individual gain, private motive or oblique reasons in filing this writ petition. It is not guided for gain of any other individual person, institution or body. There is no motive other than larger public interest and interest of justice.
- 7.** There is no civil, criminal or revenue litigation, involving petitioner, which has or could have legal nexus with the issues involved in this writ petition. The Petition is totally bona-fide and in larger public interest.
- 8.** There is no requirement to move concerned authority for relief sought in this petition. There is no other remedy available except approaching this Hon'ble Court by way of this writ petition.

9. The Article 35A was not added to the Constitution by following due procedures prescribed for amendment of the Constitution under Article 368 because Article 370 does not confer legislative or executive powers to the President to amend the Constitution or perform function of Parliament. The Executive organ has brought it though the right of amendment to the Constitution lies with the legislative organ. It not only violates the constitutional procedures established by law but also against the basic structure of the Constitution of India.

10. Addition or deletion of an Article amounts to amendment to the Constitution, which could be done only by Parliament as per procedure, laid down in Article 368. However, Article 35A was never presented before the Parliament. This means the President had bypassed the Parliament in his order to add Article 35A. This also means that the amending power of Parliament under Article 368 of the Constitution was abridged in its application to Jammu & Kashmir. Actually It is an amendment, without any reference to the Parliament.

11. The classification created by the Article 35A suffers from the violation of Article 14, Equality before the Law and also against basic structure of the Constitution. The non-resident Indian citizens cannot have the rights and privileges, same as permanent residents of Jammu and Kashmir. It facilitates the violation of the right of women to 'marry a man of their choice' by not giving the heirs any right to property, if the woman marries a man not holding Permanent Resident Certificate (PRC). Therefore, her children are not given PRC and thereby considering them unfit for inheritance – not given any right to such a woman's property even if she is a permanent resident.

12. It facilitates the free and unrestrained violation of fundamental rights of those workers and settlers like Scheduled Caste and Scheduled Tribe people who have lived there for generations. The Dalits and Valmikis who were brought to the State during 1957 were given Permanent Resident Certificates on the condition that they and their future generations could stay in the State only if they continued to be scavengers. And even after six decades of service in the State, their children are safai-karmacharis and they have been denied the right to quit scavenging and choose any other profession.

13. The industrial sector and whole private sector suffers due to the property ownership restrictions. Good doctors do not come to the State for the same reason. Children of non-state subjects do not get admission to state colleges. It ruins the status of West Pakistani refugees. Being citizens of India, they are not stateless persons, but being non-permanent residents of Jammu and Kashmir, they cannot enjoy the basic rights and privileges as being enjoyed by permanent residents of Jammu and Kashmir.

14. Article 35A gives a free hand to the state government and politicians to discriminate between citizens of India on an unfair basis and give preferential treatment to some by trampling over others, since the non-residents of the state are debarred from buying properties, getting a government job or voting in the local elections.

15. The issues to be decided by this Hon'ble Court are:

(i). Whether the powers of the President under Article 370(1)(d) are Executive or Legislative or Constitutional and by virtue of nature of powers, whether there are any express limitation upon such powers of

the President, while making any modification and/ or restrictions in the matter of application of any Article in relation to the State of J & K.

(ii). Whether the powers of the President under Article 370(1) are not coextensive with the powers of the Parliament under Article 368 and Whether there is any distinction between the nature and width of powers of the Parliament (which includes President also) under Article 368 of the Constitution and nature and width of the powers of the President under Article 370(1)(d)? If so its effect on the exercise of powers of the President while making any modification and /or restriction under Article 370(1)(d).

(iii) Whether the implied limitations of Basic Structure Theory are operative on the amending powers of the Parliament under Article 368 only and the Powers of the President under Article 370(1) while applying a constitutional provision in its application to the State of J&K, are limited to modify or restrict the enacted constitutional provision in such a way that the core value of the very provision or other constitutional provisions of the Constitution is not lost.

(iv) Whether the changes, modification or omission made in Article 16, 19, 35 and addition of Article 35A by the President while applying Part III in relation to State of J & K are in the nature of substantial amendment/ additions changing the entire constitutional scheme of Part III of the Constitution of India is the usurpation of powers of the Parliament under Article 368?

(v) What is the scope of two provisos to sub-clause (d) of Clause (1) of Article 370 and their relation with the main provision of sub-clause (d) of clause (1) of Article 370.

(vi) Whether “The Constitution Order (Application to Jammu and Kashmir) Order 1954” (“CO 1954”) so far it adds the impugned Article 35A, whereby the powers of the Parliament to make law violating the fundamental rights of the Citizens have been transferred to the State Legislature and such law having been rendered non-justiciable under law is beyond the powers of the President to make modification and restrictions under sub-clause (d) of clause (1) of Article 370?

(vii) Whether “The Constitution Order (Application to Jammu and Kashmir) Order 1954” (“CO 1954”) so far it makes fundamental alteration in Articles 16(3), 35, 372 and further adds impugned Article 35-A in Part III of the Constitution of India and thereby to take away fundamental rights guaranteed to the citizens and their class under Articles 14, 15, 16, 19(1)(d), 19(1)(e) and 19(1)(f), 21, 29(2) and rendering such alteration and addition non-justiciable amounts to modification and restrictions having been made by the President in violation of basic structure of Constitution and is not a permissible restriction and modification by the President under sub-clause (d) of clause (1) of Article 370 of the Constitution of India?

(viii) Whether “The Constitution Order (Application to Jammu and Kashmir) Order 1954” (“CO 1954”) so far it adds Article 35A empowering the State Legislature under clause (a) to define “permanent resident” without any intelligible differentia and legal objects, thereby taking away the fundamental rights guaranteed under Article 14 to the class of the petitioners citizens and rendering such law un-justiciable is permissible modification and restrictions by the President under sub-clause (d) of clause (1) of Article 370 of the Constitution of India.

(ix) Whether “The Constitution Order (Application to Jammu and Kashmir) Order 1954” (“CO 1954”) so far it adds Article 35A empowering the State Legislature under clause (a) to define “permanent resident” and to confer the right of education in state funded / aided professional institutions of higher education colleges, on such “permanent resident” so defined under clause (a), thereby taking away the fundamental right of the petitioners / factually resident citizens of State of J & K. to seek admission in such professional institutions guaranteed under Article 14, 15 and 29(2) of the Constitution of India and rendering such law un-justiciable is permissible modification and restrictions by the President under sub-clause (d) of clause (1) of Article 370 of the Constitution of India.

(x) Whether “CO 1954” so far it omits the State of Jammu and Kashmir from the reference of the State under clause (3) of Article 16, reference of ‘clause (3) of Article 16’ in Article 35 and empowering the State Legislature under sub-clause (i) of clause (b) of Article 35A to make law prescribing, in regard to employment or appointment to an office under the State Government or any local or other authority within a State amounts to violation of basic structure of Constitution of India and is not a permissible modification and restrictions by the President under sub-clause (d) of clause (1) of Article 370 of the Constitution.

(xi) Whether “CO 1954” so far it adds Article 35A empowering the State Legislature under clause (a) to define “permanent resident” without any intelligent differentia on the basis of fact of residence, for prescribing, in regard to employment or appointment to an office under the State Government or any local or other authority within a State, any

requirement as to residence within the state and conferring exclusive right on such permanent residents to seek such employment to the exclusion of the Petitioners Residents and disabling such petitioners residents to prove their residence in State and thereby taking away the fundamental rights guaranteed under Article 14, 15 and 16 of Constitution of India, and rendering such law un-justiciable is a permissible modification and restrictions by the President under sub-clause (d) of clause (1) of Article 370 of the Constitution of India?

(xii) Whether “The Constitution Order (Application to Jammu and Kashmir) Order 1954” (“CO 1954”) so far it adds Article 35A empowering the State Legislature under clause (a) to define “permanent resident” without any intelligent differentia and empowers the State Legislature under sub-clause (ii) of clause (b) of Article 35A to confer right of residence and settlement on such “permanent resident” so defined under clause (a) and thereby excluding petitioners Citizens residing in the State of J & K. to acquire and hold property for residential purposes in violation of the fundamental rights of the petitioners citizens under guaranteed under Article 19(1)(f) and Article 19(1)(e) of Constitution of India and rendering such law un-justiciable is in violation of Basic Structure of the Constitution of India and is a permissible modification and restrictions by the President under sub-clause (d) of clause (1) of Article 370 of the Constitution?

(xiii) Whether the Section 6 of the Constitution of J & K defining the “Permanent Resident” as such having been enacted on the strength of impugned Article 35A has been enacted without any intelligible differentia and object, has been enacted to confer rights and benefits

upon a class based upon the principle of descent and race and thereby to take away the fundamental rights of the citizens guaranteed under Article 14, 15 and 16, 19(1)(e) and 29(2) of the Constitution of India?

(xiv) Whether Section 6 of the Constitution of J & K defining the “Permanent Resident” having been incorporated in impugned Clause (a) of Rule 17 of Jammu and Kashmir Civil Services (Classification, Control and Appeal) Rules 1956, the impugned clause has been issued in violation of fundamental rights of the Citizens guaranteed under Articles 14, 15 and 16 of the Constitution of India.

(xv) Whether impugned rule 4 of the J & K Board of Professional Entrance Examinations Rules 2014 incorporating and referring the definition under Section 6 of the Constitution of J & K has been issued in violation of fundamental rights of the Citizens guaranteed under Articles 14, 15 and 29(2) of the Constitution of India.

(xvi) Whether Proviso to sub-section (1) of Section 4 of the Jammu and Kashmir Apartment Act 1989 incorporating the definition under Section 6 of the Constitution of J & K has been issued in violation of fundamental rights of the Petitioners Citizens guaranteed under Articles 14, 15, 19(1)(f) and 19(1)(e) of the Constitution of India?

16. The President of India, by an Executive Order, added the Article 35A in the Constitution though Article 370 does not confer Legislative powers to the President to amend the Constitution of India. Article 35A not only violates constitutional procedures established by law but also the fundamental right guaranteed under Articles 14, 15, 16, 19, 21 and basic structure of the Constitution. However, the Executive has not repealed it till date. Hence, the Hon’ble Court is the only hope of citizens.

GROUNDS

- A.** Because addition or deletion of an Article amounts to amendment to the Constitution, which could be done only by the Parliament as per the procedure lay down in Article 368 of the Constitution, but Article 35A was never presented before the Parliament. It means the President of India had bypassed the Parliament. This confirms that the amending power of the Parliament under Article 368 was abridged in its application to the Jammu and Kashmir.
- B.** Because the classification created by the Article 35A suffers from violation of Articles 14, 15, 16, 19 and 21 of the Constitution. At present, Indian citizens cannot have the same rights and privileges as enjoyed by the permanent residents of Jammu and Kashmir. That apart, the industrial sector and the whole private sector also suffer due to the property ownership restrictions. Therefore, good doctors do not prefer to come to the State for the same reason.
- C.** Because the Article 35A gives a free hand to the State government to discriminate Indian citizens in arbitrary manner and give preferential treatment to some by trampling over others, since the non-residents of the Jammu & Kashmir are debarred from buying properties, getting a government job or voting in the elections.
- D.** Because Article 35A facilitates the violation of the right of a woman to 'marry a man of her choice' by not giving her heirs any right to property, if she marries a man not holding PRC (Permanent Resident Certificate). PRC is not given to her children and thereby considering them unfit for inheritance – not given any right to such a woman's property even if she is a permanent resident of Jammu & Kashmir.

- E.** Because Article 35A facilitates the free and unrestrained violation of fundamental rights of those workers and settlers like Scheduled Caste and Scheduled Tribe people who have lived in J&K for generations. **Dalits and Valmikis** who were brought to the State in 1950-60 were given Permanent Resident Certificates on the condition that they and their future generations could stay in the State only if they continued to be *safai-karmacharis* (scavengers). And even after six decades of service in the State, their children are *safai-karmacharis* and they have been denied the right to quit scavenging and choose any other profession.
- F.** Because the industrial sector and whole private sector suffers due to the property ownership restrictions. Good doctors and experienced engineers and teachers do not come to the State for the same reason.
- G.** Because the Children of other States do not even get admission in the Medial, Engineering and Professional Colleges and Universities.
- H.** Because Article 35A also ruins the status of West Pakistani refugees. Being the Indian citizen, they are not stateless persons, but being non-permanent residents of J&K, they cannot enjoy the fundamental rights guaranteed under the Articles 14, 15, 16, 19 and 21 and the privileges, as being enjoyed by permanent residents of Jammu and Kashmir.
- I.** Because Article 35A gives a free hand to the State government to discriminate the Indian citizens in arbitrary manner and give preferential treatment to some by trampling others, since the non-residents of other States are debarred from buying properties, getting a government job or voting in the election.
- J.** Because Article 35A is arbitrary and contrary to Articles 14, 15, 16, 19, 21 and basic structure of Constitution. Hence, void and inoperative.

PRAYER

Keeping in view the above stated facts and circumstances and the appalling effects of Article 35A on fundamental rights guaranteed to citizens under Articles 14, 15, 16, 19 and 21 of the Constitution; it is the most respectfully prayed that this Hon'ble Court may be pleased to:

- a)** issue a writ, order or direction or a writ in the nature of mandamus to the Central and State Government and declare that Article 35A of the constitution is arbitrary and contrary to the Articles 14, 15, 16, 19, 21 and basic structure of the Constitution. Hence, void and inoperative;
- b)** issue a writ, order or direction or a writ in the nature of mandamus to the respondents and declare that fundamental rights guaranteed under Part-III of the Constitution viz. right to equality, right to employment, right to equal opportunity, right to trade and business, right to form association, right to information, right to marry, right to privacy, right to shelter, right to health and right to education etc., is equally available to all Indian citizens throughout the territory of India including J & K;
- c)** pass such other writ(s) or order(s) or direction(s) as this Hon'ble Court may deem fit in the facts and circumstances of the case and to secure fundamental rights of Indian citizens, particularly guaranteed under Articles 14, 15, 16, 19 and 21 of the Constitution of India; and
- d)** allow the cost of this writ petition to petitioner.

NEW DELHI

14.08.2018

ADVOCATE FOR PETITIONER

(R.D.UPADHYAY)

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION (CIVIL) NO OF 2018

IN THE MATTER OF:

Ashwini Kumar Upadhyay	<u>Verses</u>	...Petitioner
Union of India & another		...Respondents

AFFIDAVIT

I, Ashwini Kumar Upadhyay aged 43 years, son of Sh. Suresh Upadhyay, Office at: , at present at New Delhi, do hereby solemnly affirm and declare as under:

1. I am the sole petitioner above named and well acquainted with facts and circumstances of the case and as such competent to swear this affidavit.
2. I have read and understood contents of accompanying synopsis and list of dates pages (B- D) writ petition paras (1- 16) pages (1- 12) and total pages (1- 16), which are true and correct to my knowledge and belief.
3. Annexure has not been filed with the petition.
4. I have not filed any other petition either in this Hon'ble Court or in any other Court seeking same or similar directions as prayed in this petition.
5. I have no personal interests, individual gain, private motive or oblique reasons in filing this petition. It is not guided for gain of any other individual person, institution or body. The only motive is public interest.
6. There is no civil, criminal or revenue litigation, involving petitioner, which has or could have legal nexus, with issue involved in this petition.
7. There is no requirement to move concerned government authority for relief sought in this petition. There is no other remedy available except approaching this Hon'ble Court.
8. I have gone through the Article 32 and the Supreme Court Rules and do hereby affirm that the present petition is in conformity thereof.
9. I have done whatsoever enquiry/investigation, which was in my power to do, to collect the data or material, which was available; and which was relevant for this Hon'ble Court to entertain the present petition.
10. I've not concealed any data/material/information in this petition; which may have enabled this Hon'ble Court to form an opinion, whether to entertain this petition or not and/or whether to grant any relief or not.
11. The averments made in this affidavit are true and correct to my personal knowledge and belief. No part of this Affidavit is false or fabricated, nor has anything material been concealed there from.

(Ashwini Kumar Upadhyay)
DEPONENT

VERIFICATION

I, the Deponent do hereby verify that the contents of above affidavit are true and correct to my personal knowledge and belief. No part of this affidavit is false nor has anything material been concealed there from.

I hereby solemnly affirm and declare it today i.e. the 14th day of August 2018 at New Delhi.

(Ashwini Kumar Upadhyay)
DEPONENT

APPENDIX

ARTICLE 35A IN THE CONSTITUTION OF INDIA

(a) Parliament shall have, and the Legislature of a State shall not have, power to make laws

(i) with respect to any of the matters which under clause (3) of Article 16, clause (3) of Article 32, Article 33 and Article 34 may be provided for by law made by Parliament; and

(ii) for prescribing punishment for those acts which are declared to be offences under this Part; and Parliament shall, as soon as may be after the commencement of this Constitution, make laws for prescribing punishment for the acts referred to in sub clause (ii);

ARTICLE 14 IN THE CONSTITUTION OF INDIA

14. Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

ARTICLE 15 IN THE CONSTITUTION OF INDIA

15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to

(a) access to shops, public restaurants, hotels and palaces of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public

(3) Nothing in this article shall prevent the State from making any special provision for women and children

(4) Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes

ARTICLE 16 IN THE CONSTITUTION OF INDIA

16. Equality of opportunity in matters of public employment

(1) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State

(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect or, any employment or office under the State

(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment

(4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favor of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State

(5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the

governing body thereof shall be a person professing a particular religion or belonging to a particular denomination

ARTICLE 19 IN THE CONSTITUTION OF INDIA

19. Protection of certain rights regarding freedom of speech etc

(1) All citizens shall have the right

(a) to freedom of speech and expression;

(b) to assemble peaceably and without arms;

(c) to form associations or unions;

(d) to move freely throughout the territory of India;

(e) to reside and settle in any part of the territory of India; and

(f) omitted

(g) to practise any profession or carry any occupation, trade or business

(2) Nothing in sub clause (a) of clause (1) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence

(3) Nothing in sub clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub clause

(4) Nothing in sub clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub clause

(5) Nothing in sub clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe

(6) Nothing in sub clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub clause, and, in particular, nothing in the said sub clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,

(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or

(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise

ARTICLE 21 IN THE CONSTITUTION OF INDIA

21. Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law
