

INDEX

S.No	PARTICULARS	Part No. to which it belongs.		Remarks
		Part I (Contents of Paper Book)	Part II (Contents of File alone)	
(i)	(ii)	(iii)	(iv)	(v)
1.	Office Report on Limitation			
2.	Listing Performa	A1-A2		
3.	Cover Page of Paper Book		A3	
4.	Index of Record of Proceedings.		A4	
5.	Limitation Report prepared by Registry.		A5	
6.	Defect List		A6	
7.	Note Sheet		NS1 to	
8.	Synopsis & List of Dates	B-		
9.	Writ Petition with Affidavit	1-		
10.	Appendix Article 32 of Constitution of India.			
11.	Annexure P-1: A true copy of the Ordinance dated NIL passed by the State of Uttarakhand, (Uk.) “The Uttarakhand, Freedom of Religion Act, 2018. [Uttarakhand Act no. 28 of 2018]”,			

12.	Annexure P-2: A true copy of the news clipping dated 24.11.2020 published by the Wire is regarding Adityanath Cabinet Approves Ordinance Against 'Love Jihad' on and Punishment under the new law.			
13.	Annexure P-3: A true copy of the Ordinance dated 27.11.2020 passed by the Government of Uttar Pradesh by the name of “The Uttar Pradesh Prohibition Of Unlawful Conversion Of Religion Ordinance, 2020”.			
11.	Filing Memo			
12.	Memo of Appearance			
13.	Photocopy of the Bar ID of petitioner no. 1.			
14.	Photocopy of the Bar ID of petitioner no. 2.			
15.	Photocopy of the ID of petitioner no. 3.			

LISTING PROFORMASection: PIL

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

I	Central Act: (Title)	Constitution of India
II	Section:	Article 32
III	Central Rule: (Title)	NA
IV	Rule No. (s)	NA
V	State Act: (Title)	NA
VI	Section	NA
VII	State Rule: (Title)	NA
VIII	Rule No. (s)	NA
IX	Impugned Interim Order (Date)	NA
X	Impugned Final Order/Decree: (Date)	NA.
XI	High Court: (Name)	NA
XII	Names of Judges	NA
XIII	Tribunal/Authority (Name)	NA
1.	Nature of Matter	Writ Petition (CRIMINAL)
2.	(a) Petitioner/appellant No. 1	Vishal Thakre
	(b) e-mail ID:	advocatevishalthakre@gmail.com
	(c) Mobile Phone number	9654267256
3	(a) Respondent Nos.	Union of India & Ors.
	(b) e-mail ID:	supremecourt@nic.in
	(c) Mobile Phone number	NA
4	(a) Main category classification	08: Letter Petition & PIL Matters
	(b) Sub classification	0812: Others.
5	Not to be listed before	NA
6	(a) Similar disposed of matter with citation, if any & case details	No

	(b)	Similar Pending matter with case details	No
7		CRIMINAL Matters	No
	(a)	Whether accused or convict has surrendered	NA
	(b)	FIR No. & Date	NA
	(c)	Police Station	NA
	(d)	Sentence Awarded	NA
	(e)	Period of sentence undergone including Period of Detention/Custody undergone.	NA
8		Land Acquisition Matters	No
	(a)	Date of Section 4 notification	NA
	(b)	Date of Section 6 notification	NA
	(c)	Date of Section 17 notification	NA
9.		Tax matters: State the tax effect:	NA
10.		Special Category (first petitioner/appellant only)	NA
	(a)	Senior Citizen > 65 years	NA
	(b)	SC/ST	NA
	(c)	Women/Child	NA
	(d)	Disabled	NA
	(e)	Legal Aid Case	NA
	(f)	In custody	NA
11.		Vehicle number (in case of Motor Accident Claim matters)	NA

Sanjeev Malhotra
AOR, for the Petitioners
Email:sanjeevmalhotra@hotmail.com
Mobile:09990662762

Date: 30.11.2020

SYNOPSIS

The present Writ petition is being filed Under Article 32 of the Constitution of India, by the petitioners before this Hon'ble Court, being aggrieved by the recently ordinance passed by the two states in the name of "Love Jihad" which curtails the Fundamental Rights of the citizen of India which has been provided in third part of the our Constitution, Petitioner No. 1 is a Practicing Advocate in various Court of Delhi, and New Delhi, and before this Hon'ble Court, Petitioner No. 2 is also a Practicing Advocate in Delhi and Petitioner No. 3 is Law Researcher pursuing PhD. in law, from CMP Degree College, Allahabad University, Allahabad and both the petitioner has the Locus to file the present petition as the petitioners are aggrieved of Ordinance passed by the State Government and knocking at the door of this Hon'ble Court and are praying before this Hon'ble Court that the Law passed by the State of Uttar Pradesh and Uttarakhand, (Uk.) in against the Love Jihad and punishments thereof may be declared Ultra Virus and null and Void, because it disturbs the basic Structure of the Constitution as laid down by the Law. The Ordinance passed by the State of Uttar Pradesh, U.P) and Uttarakhand, (Uk.) is against the Public Policy and society at large.

Brief facts of the case that "Fundamental rights are considered to be necessary for the development of human personality. These rights are the rights which helps a man to figure out his/her own life in a manner he/she wants. Our

constitution has given us the fundamental rights which also includes the rights of minorities and other backward communities. According to the Constitution, Parliament and the state legislatures in India have the power to make laws within their respective jurisdictions. But, this power is not absolute in nature. The Constitution rests with the judiciary and the power to adjudicate upon the constitutional validity of all laws also rests with the judiciary.

If a law made by Parliament or the state legislatures violates any provision of the Constitution, the Supreme Court has the power to declare such a law invalid, unconstitutional or ultra vires. This check notwithstanding, the founding fathers wanted the Constitution to be an adaptable document rather than a rigid framework for governance. They wanted it to be a flexible document which can adjust or adapt itself according to the changing situations. The Golakh v state of Punjab was one of the important cases in India history. The judgement of this case came at a very crucial time. It came when the democracy was suffering from the start of what later became the “darkest decade” of India. This judgment helped to stop the parliament from showing its autocracy. The majority bench was afraid of deterioration of the soul of the constitution. This judgement forbade the parliament from causing any damage to the fundamental rights of the citizens by implementing a law which had the effect of suppressing the autocracy of the parliament.

In the matter of Golak Nath Vs. Satte of Punjab it was held by this Hon’ble Court that “The judgment was focused on protecting the fundamental provisions which

are equal to fundamental or natural rights of mankind and no government can take it. Golaknath is a kind of victory of “rule of law” because it made it clear that even the lawmakers are not above the law. This case reinforced the faith of the citizens that the law is supreme, not the one who makes it (Parliament), neither who implements (Executive) it and nor the one who interprets it (Judiciary).

But there’s nothing perfect in this world. The same goes with this judgment. The judgement of Golaknath is not a perfect judgement. One of the biggest flaws was that the judgement granted rigidity to the constitution. The court said if there has to be an amendment then it has to be through a constituent assembly. Secondly, the court only protected the fundamental rights from the absolute power of the parliament but it could have protected all the fundamental features of the constitution. They did not use the opportunity in a way they could have used. Due to these kind of problems in the judgement it was overruled to some extent in another landmark judgment in the case of Kesavananda Bharati v Union of India 1973. To read more about Kesavananda Bharati v Union of India 1973 refer to the link given below.

Hence, the present PIL writ petition is filed.

LIST OF DATES

NIL	That dated NIL the State of Uttarakhand, (Uk.) has passed “The Uttarakhand, Freedom of Religion Act, 2018. [Uttarakhand Act no. 28 of 2018]. The ordinance is against the law
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and the State Government and its Authorities are trying to implementing it. A true copy of the Ordinance dated NIL passed by the State of Uttarakhand, (Uk.) “The Uttarakhand, Freedom of Religion Act, 2018. [Uttarakhand Act no. 28 of 2018]”, is annexed herewith and marked as **Annexure P- 1 at [Pages to]**.

24.11.2020

That on 24.11.2020 Adityanath Cabinet Approves Ordinance Against 'Love Jihad' on and Punishment under the new law is a jail term between one and five years, in addition to steep fines. The fine and jail term go up for 'conversions' of people who are members of the SC or ST communities or are minors. An official spokesperson was quoted by PTI as having said that the approval for the ordinance was given at a meeting of the state cabinet chaired by Chief Minister Yogi Adityanath at Lucknow. A true copy of the news clipping dated 24.11.2020 published by the Wire is regarding Adityanath Cabinet Approves Ordinance Against 'Love Jihad' on and Punishment under the new law, is annexed herewith and marked as **Annexure P- 2 at [Pages to]**.

27.11.2020

That on 27.11.2020 an ordinance was passed by the Government of Uttar Pradesh by the name of “The Uttar Pradesh Prohibition Of Unlawful Conversion Of Religion Ordinance, 2020” conversion of religion Ordinance. A true copy of the Ordinance dated 27.11.2020 passed by the Government of Uttar Pradesh by the name of “The Uttar Pradesh Prohibition Of Unlawful Conversion Of Religion Ordinance, 2020”, is annexed herewith and marked as **Annexure P-3 at [Pages to]**.

30.11.2020

Hence, the present PIL Writ Petition is filed.

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION [CRIMINAL] NO. _____ OF 2020

[Under Article 32 of the Constitution of India read with Order
XXXVIII, Rule 12 (1) (d) & 2 of The Supreme Court Rules,
2013)

BETWEEN:

1. Vishal Thakre,
Advocate,
Aged about 45 Years, S/o, Late Sh. P.R. Thakre,
K-49, Laxmi Nagar,
Delhi - 110092
Email: advocatevishalthakre@gmail.com;
Mob: 9654267256
PAN NO: ADRPT1085A; ANNUAL INCOME:
GROSS Rs. 3,00,000/- Adv. ID: D-1247/2012 ...1st Petitioner

2. Abhay Singh Yadav
Advocate,
Aged about 32 years, S/o Bhagwat Prasad Yadav
16, Samachar Apartments, Mayur Vihar -1, Extn.
Delhi - 110091
E-mail: abhayy049@gmail.com;
Mob: 8109083537
PAN No. : AKUPY469E; ANNUAL INCOME
GROSS Rs. 2,00,000/- Adv. ID: D-1459/2020 ...2nd Petitioner

3. Pranvesh,
Law Resercher,
Aged about 24 years,
S/o Shri Jadu Nandan Singh.
Aged about 24 Years,
109., F/3-B/A, Anant Nagar, Preetam Nagar,
Allahabad, Uttar Pradesh
Email: adv.pranvesh@gmail.com
ANNUAL INCOME: NIL ...3rd Petitioner

AND

1. Union of India –
Thru-Cabinet Secretary
Rashtrapati Bhawan
New Delhi - 110003
 2. Chief Secretary Uttar Pradesh
Government of Uttar Pradesh
Room NO. 10, Lok Bhawan,
U.P. Civil Secretariat
Vidhansabha Marg
Lucknow, Uttar Pradesh – 226 001
 3. Secretary Law and Order
Govt. of Uttar Pradesh.
 4. Chief Secretary, (Home)
Uttarakhand Secretariat
4, Subhash Road, Irrigation Colony,
Karanpur, Dehradun, Uttarakhand
Dehradun-24800, (Uk.)
- ...Respondents

ALL ARE CONTESTING RESPONDENTS

WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA READ WITH ORDER XXXVIII, RULE 12 (1) (D) & 2 OF THE SUPREME COURT RULES, 2013 TO ISSUE AN WRIT OF MANDAMUS DIRECTING/ DECLARING THE PROVISIONS OF THE ORDINANCE/S “THE UTTAR PRADESH PROHIBITION OF UNLAWFUL CONVERSION OF RELIGION ORDINANCE, 2020 AND THE UTTARAKHAND FREEDOM OF RELIGION ACT, 2018 TO BE ULTRA VIRUS, AND DIRECT THE AUTHORITIES NOT TO GIVE EFFECT TO THE ORDINANCE PASSED BY THE CONCERNED STATE GOVERNMENTS.

To,

THE HON'BLE THE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICE OF THE
SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE
PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:-

1. The present Writ petition is being filed Under Article 32 of the Constitution of India, by the petitioners before this Hon'ble Court, being aggrieved by the recently ordinance passed by the two states in the name of "Love Jihad" which curtails the Fundamental Rights of the citizen of India which has been provided in third part of the our Constitution, Petitioner No. 1 is a Practicing Advocate in various Court of Delhi, and New Delhi, and before this Hon'ble Court, Petitioner No. 2 is also a Practicing Advocate in Delhi and Petitioner No. 3 is Law Researcher pursuing PhD. in law, from CMP Degree College, Allahabad University, Allahabad and both the petitioner has the Locus to file the present petition as the petitioners are aggrieved of Ordinance passed by the State Government and knocking at the door of this Hon'ble Court and are praying before this Hon'ble Court that the Law passed by the State of Uttar Pradesh and Uttarakhand, (Uk.) in against the Love Jihad and punishments thereof may be declared Ultra Virus and null and Void, because it disturbs the basic Structure of the Constitution as laid down by the Law. The Ordinance passed by the State of Uttar Pradesh,

U.P) and Uttarakhand, (Uk.) is against the Public Policy and society at large.

2. The relief mainly sought in the present W P (Crl.) against the respondents and concerned Authorities.

2. **FACTS OF THE CASE:**

The Brief Facts giving rise to the present petition are as follows:

- 2.1 The present Writ petition is being filed Under Article 32 of the Constitution of India, by the petitioners before this Hon'ble Court, being aggrieved by the recently ordinance passed by the two states in the name of "Love Jihad" which curtails the Fundamental Rights of the citizen of India which has been provided in third part of the our Constitution, Petitioner No. 1 is a Practicing Advocate in various Court of Delhi, and New Delhi, and before this Hon'ble Court, Petitioner No. 2 is also a Practicing Advocate in Delhi and Petitioner No. 3 is Law Researcher pursuing PhD. in law, from CMP Degree College, Allahabad University, Allahabad and both the petitioner has the Locus to file the present petition as the petitioners are aggrieved of Ordinance passed by the State Government and knocking at the door of this Hon'ble Court and are praying before this Hon'ble Court that the Law passed by the State of Uttar Pradesh and Uttarakhand, (Uk.) in against the Love

Jihad and punishments thereof may be declared Ultra Virus and null and Void, because it disturbs the basic Structure of the Constitution as laid down by the Law. The Ordinance passed by the State of Uttar Pradesh, U.P) and Uttarakhand, (Uk.) is against the Public Policy and society at large.

2.2 Brief Facts of the case that one Ordinance is passed by the State of Uttar Pradesh and Uttarakhand, (Uk.) by the name of Uttar Pradesh Prohibition of unlawful Conversion of Religion Ordinance, 2020 and The Uttarakhand Freedom of Religion Act, 2018, against the Love Jihad wherein a law has been passed by the Governments and strict Laws has been enacted. That the ordinance disturbs the basic structure of the Constitution of India, which was held by this Hon'ble time to time in catena of Judgement, in specially in the matter of "Golaknath v State of Punjab is one of the landmark cases in the Indian legal history. A number of questions were raised in this case. But the most important issue was whether the parliament has the power to amend the fundamental rights enshrined under Part III of the Constitution of India or not. The petitioners contended that the parliament has no power to amend the fundamental rights whereas the respondents contended that the constitution-makers never wanted our constitution as rigid and Non-flexible one. The court held that the parliament cannot amend the fundamental rights. This ruling overturned in Kesavananda Bharati vs Union of India 1973. In this, the court held that the parliament

can amend the constitution including fundamental rights but the parliament cannot change the basic structure of the constitution.

“The majority said that the parliament has no right to amend the fundamental rights. These are fundamental rights are kept beyond the reach of parliamentary legislation. Therefore, to save the democracy from an autocratic actions of the parliament the majority held that parliament cannot amend the fundamental rights enshrined under Part III of the Constitution of India The majority said that fundamental rights are the same as natural rights. These rights are important for the growth and development of a human being”.

- 2.3 It was held by this Hon’ble that Parliament cannot curtail any fundamental right of the people through enactment of any law, which violates the basic structure of the Indian Constitutions.

Hence, the present PIL Writ Petition is filed.

3. **GROUND:**

The Petitioner seeking relief on the following grounds: -

- 3.1. Because of the passing of the Ordinance the injustice has been done to the persons /citizens who had done nothing wrong but still have to face the consequences.

- 3.2. Because it is also pertinent to mention herein that the ordinance is passed by the State Government/s of Uttar Pradesh and Uttrakhand is against the provisions Special Marriage Act, 1954 and it will create fear in the society who is/ are not part of Love Jihad they can be falsely implicated in the ordinance
- 3.3. Because, this ordinance can become a potent tool in the hands of bad elements of the society to use this ordinance to falsely implicate anyone in this ordinance and there are probabilities of falsely implicate persons who are not involved in any such acts and it will be a grave injustice if this ordinance is passed.
- 3.4. Because, it will be a weapon in the hands of some people to whom they can falsely implicate in the false case.
- 3.5. Because, the center has the right to make laws for the states as per Article 254 of the Constitution of India, if there is inconsistency between laws made by Parliament and laws made by the Legislatures of State, in that case the Law enacted /passed by the Center will prevail. The State Governments have to rethink their decision to pass its decision of the above-mentioned ordinance.
- 3.6. Because, if this ordinance is implemented it will be against the Public Police and this ordinance will harm public at a large and will create a chaotic situation in the soceity.
- 3.7. Because, the ordinance is against the

4. **DECLARATION OF REPRESENTATION MADE & CONCERNED GOVERNMENT AUTHORITY APPROACHED IF ANY & ITS RESULT:**

The relief mainly sought in the present WP against the respondent Central and State Governments which is a clear violation of Fundamental Rights that is guaranteed by the Constitution under Article 19 & 21 and Article 32

5. **AFFIDAVIT OF NO PERSONAL GAIN OR MOTIVE:**

The Petitioners have filed an affidavit stating that there is no personal gain, private motive or oblique reason in filing the Public Interest Litigation with this petition. The Petitioner further states that the petitioner has spent his own money for this PIL Writ Petition.

6. **COURT MAY IMPOSE EXEMPLARY COSTS IF ANY:**

The issue involved in the present W.P. (Crl.) is a purely a legal issues and it is filed in the larger public interest and to protect their fundamental rights to liberty and equality. The Court may impose costs on the petitioner(s) if it finds that the petition was frivolous or instituted with oblique or mala fide motive or lacks bona fides.

7. **DECLARATION OF NO CASE FILED EARLIER:**

That the petitioners state that no other similar petition has been filed before this Hon'ble Court or before any other Court earlier either by the Petitioners or any other persons.

8. PRAYER:

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

- a) That this Hon'ble Court may be pleased to allow the present petition, Under Article 32 Of The Constitution Of India Read With Order XXXVIII, Rule 12 (1) (D) & 2 of The Supreme Court Rules, 2013 to issue an Writ of Mandamus directing/ declaring the provisions of the Ordinance/s "The Uttar Pradesh Prohibition Of Unlawful Conversion Of Religion Ordinance, 2020 And The Uttarakhand Freedom Of Religion Act, 2018 to be ultra-virus, and direct the Authorities not to give effect to the Ordinance passed by the concerned State Governments.
- b) This Hon'ble Court be pleased to issue a direction to the Respondents directing them to not to give effect to impugned provisions/ordinance and withdraw the same or in the alternative modify the said bill as the Court deems fit and /or

- c) Pass such other and further order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

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

DRAWN BY

FILED BY

PRADEEP KUMAR YADAV SANJEEV MALHOTRA

Place: New Delhi

Drawn on: 30.11.2020

Filed On: 30.11.2020

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
WRIT PETITION [CRIMINAL] NO. _____ OF 2020
IN THE MATTER OF:

VISHAL THAKRE & ORS.Petitioners
-Versus-
Union of India & Ors. Respondents

AFFIDAVIT

I, Vishal Thakre, Aged about 45 Years, S/o, Late Sh. P.R. Thakre, R/o K-49, Laxmi Nagar, Delhi – 110 092, do hereby solemnly affirm and swear as under:

1. That I am the citizen of India and I am the 1st Petitioner in the above matter and well conversant with the facts and circumstances of the case from the records/documents/news items available and I am competent to swear this affidavit.
2. That I say that the facts stated and contents in pages B to of the List of Dates and at paragraphs 1 to at page Nos. to of the Writ Petition and I.A. and correct to the best my knowledge from, The averments, facts and grounds raised in the WP are legal grounds.
3. That have read the contents of the present petition and I.A.
4. That the annexures appended to the above WP are true copies of their respective originals downloaded from the internet website.
5. That the facts stated in paragraph 1 to 4 above are true and correct.

DEPONENT

Verification:

I, the above named deponent states that the contents of this affidavit are true and correct to the best of my knowledge and belief. Nothing material concealed nor any wrong statements made herein. Verified at New Delhi on this 30th day of November, 2020.

DEPONENT

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION
WRIT PETITION [CRIMINAL] NO. _____ OF 2020
IN THE MATTER OF:

VISHAL THAKRE & ORS. ...Petitioners

-Versus-

Union of India & Ors. ... Respondents

APPENDIX

Central Government Act

Article 32 in The Constitution Of India 1949

32. Remedies for enforcement of rights conferred by this Part

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by this Part is guaranteed

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part

(3) Without prejudice to the powers conferred on the Supreme Court by clause (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2)

(4) The right guaranteed by this article shall not be suspended except as otherwise provided for by this Constitution

//True Copy//

**SANJEEV MALHOTRA
ADVOCATE-ON-RECORD
103. C.K. DAPHTARY BLOCK,
SUPREME COURT OF INDIA
NEW DELHI**

URGENCY LETTER

To,

The Registrar,
Supreme Court of India
New Delhi- 01

Date:30.11.2020

Sub: Writ Petition (CRL.) NO. _____/2020

VISHAL THAKRE & ORS.PETITIONERS
-VERSUS-
UNION OF INDIA & ORS. RESPONDENTS

Sir,

The present Writ petition is being filed Under Article 32 of the Constitution of India, by the petitioners before this Hon'ble Court, being aggrieved by the recently ordinance passed by the two states in the name of "Love Jihad" which curtails the Fundamental Rights of the citizen of India which has been provided in third part of the our Constitution, Petitioner No. 1 is a Practicing Advocate in various Court of Delhi, and New Delhi, and before this Hon'ble Court, Petitioner No. 2 is also a Practicing Advocate in Delhi and Petitioner No. 3 is Law Researcher pursuing PhD. in law, from CMP Degree College, Allahabad University, Allahabad and both the petitioner has the Locus to file the present petition as the petitioners are aggrieved of Ordinance passed by the State Government and knocking at the door of this Hon'ble Court and are praying before this Hon'ble Court that the Law passed by the State of Uttar Pradesh and Uttarakhand, (Uk.) in against the Love Jihad and punishments thereof may be declared Ultra Virus and null and Void, because it disturbs the basic Structure of the Constitution as laid down by the Law. The Ordinance passed by the State of Uttar Pradesh, U.P) and Uttarakhand, (Uk.) is against the Public Policy and society at large.

This matter is very urgent and has to be listed before this Hon'ble Court at the earliest.

Yours Faithfully

(Sanjeev Malhotra)
Advocate-On-Record
CC:728

