

IN THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)

WRIT PETITION (CIVIL) NO. 797 OF 2021

(Under Article 32 of the Constitution of India)

IN THE MATTER OF:

Ashish Shelar & Ors. ... Petitioners

VERSUS

The Maharashtra Legislative
Assembly & Anr. ... Respondents

WITH

I.A. NO. OF 2021

APPLICATION FOR AD-INTERIM EX-PARTE STAY

I.A. NO. OF 2021

APPLICATION FOR EXEMPTION FROM FILING
OFFICIAL TRANSLATION

AND

I.A. NO. OF 2021

APPLICATION FOR EXEMPTION FROM FILING
NOTARIZED AFFIDAVIT AND VAKALATNAMA

PAPER – BOOK

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ADVOCATE FOR THE PETITIONERS :

ABHIKALP PRATAP SINGH

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PROFORMA FOR FIRST LISTING

SECTION: X

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

Central Act: **Constitution of India**
 Section: **Article 32 of Constitution of India**

Central Rule: (Title) N/A
 Rule No(s): N/A

State Act: (Title) **N/A**
 Section: **N/A**

State Rule: (Title) **N/A**
 Rule No(s): **N/A**

Impugned Interim Order: (Date) **N/A**
 Impugned Final Order/Decree: **N/A**

High Court: (Name) **N/A**
 Names of Judges: **N/A**

Tribunal/Authority: (Name) **N/A**

1. Nature of matter: Civil Criminal

2. (a) Petitioner/Appellant No.1: **Ashish Shelar & Ors.**
(b) e-mail ID: N/A
(c) Mobile phone number: N/A

3. (a) Respondent No.1: **The Maharashtra Legislative Assembly & Anr.**
(b) e-mail ID: N/A
(c) Mobile phone number: N/A

4. (a) Main Category classification: **09 ELECTION MATTERS**
(b) Sub-classification **0908 - Others**

5. Not to be listed before: N/A

6. (a) Similar disposed of matter with citation, if any & case details:
No similar matter disposed of

(b) Similar pending matter with case details: **No similar matter is pending**

7. Criminal Matters:

(a) Whether accused/convict has surrendered: Yes No

(b) FIR No. N/A

(c) Police Station: N/A

(d) Sentence Awarded: N/A

(e) Period of sentence undergone including period of Detention/Custody Undergone 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: **N/A**

9. Tax Matters: State the tax effect: **N/A**

10. Special Category (first petitioner/appellant only): **N/A**

Senior citizen > 65 years SC/ST Woman/child Disabled Legal Aid case In custody

11. Vehicle Number (in case of Motor Accident Claim matters): N/A

Date: 22.07.2021

AOR for petitioner(s)/appellant(s)


ABHIKALP PRATAP SINGH


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SYNOPSIS

The present petition filed under Article 32 of the Constitution of India challenges the ex facie arbitrary resolution dated 05.07.2021 passed by Respondent No. 1 thereby suspending 12 members of the opposition including the Petitioners from the Maharashtra Legislative Assembly for a period of 1 year. The impugned resolution has been passed in abject violation of Article 14 of the Constitution of India in as much as no opportunity of hearing or at least furnishing their written explanation was given to the Petitioners. Further, a perusal of the impugned resolution shows that there has been utter non-application of mind in as much there was no material available for identifying the 12 MLA's from a large crowd of people.

The Petitioners are members of the Bhartiya Janata Party (BJP) and are elected members of the Maharashtra Legislative Assembly. The BJP is the principal opposition party in the Legislative Assembly. The Ruling Party is a coalition between the Shiv Sena, The Nationalist Congress Party (NCP) and the Indian National Congress (INC) named as "Maha Vikas Aghadi". The monsoon session of the Maharashtra Legislative Assembly was scheduled to be held on 05.07.2021 and 06.07.2021.

The Petitioners submit that on 05.07.2021, the House was being presided over by such a Chairman nominated under Rule 8 of the Maharashtra Legislative Assembly Rules, 1960 (MLS Rules). The business of the House was being

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transacted in a totally unilateral manner, where the members of the Opposition were being denied the opportunity to raise important questions and to express their views on matters of public importance. no opportunity to speak. On one such occasion, when a Minister was moving a resolution in relation to the empirical data pertaining to the OBC, the Hon'ble Leader of Opposition objected to the same. The Chairman presiding over the house, denied an opportunity to the Leader of Opposition to express his views on the matter. This led to heated exchanges between the members on both sides and consequently the house was adjourned.

When the members of the opposition went to the chamber of the Deputy Speaker to point out the unfair attitude of the Chairman nominated under Rule 8, the concerned Chairman came there and started abusing the members of the Opposition which again led to heated exchanges. It may be pertinent to state here that some members of the Shiv Sena were also present in the chamber as was later admitted by the Chairman. This led to a motion for suspension of 12 MLA's including the Petitioner being moved by the Minister for Parliamentary Affairs which was put to vote and passed.

The Petitioners submit that the impugned resolution deserves to be quashed, *inter alia* for the following reasons:

1. The impugned resolution having been passed with undue haste, the requirements of Article 14 of the Constitution of India have been completely brushed

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aside. It was incumbent upon Respondent No. 1 to grant an opportunity of hearing or at least call for a written explanation from the Petitioners. This Hon'ble Court in the case of *Alagaapuram R. Mohanraj and Ors. VS Tamil Nadu Legislative Assembly and Anr reported in (2016) 6 SCC 82* while dealing with the issue of suspension of MLA's has clearly held that *"....the Privileges Committee should have necessarily offered this opportunity, in order to make the process adopted by it compliant with the requirement of Article 14."* It further held *"...The failure to supply a copy of the video recording or affording an opportunity to the petitioners to view the recording relied upon by the Committee in our view clearly resulted in the violation of principles of natural justice i.e. a denial of a reasonable opportunity to meet the case"*

2. This Hon'ble Court therefore has clearly held that denial of reasonable opportunity to meet the case does result in violation of principles of natural justice. Tested on the anvil of the law laid down by this Hon'ble Court, the impugned resolution fall foulds of the requirement of Article 14. It was incumbent upon Respondent No. 1 to grant some opportunity to the Petitioners to meet the case against them.
3. Admittedly, as the official video recording would show, the Chairman has admitted from the Chair that some members of the Shiv Sena were also present in the Chamber of the Speaker and were involved in the

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incident. This being so, there was absolutely no material before the Chairman or the Minister to sustain the action of suspension of the Petitioners. Even the impugned resolution dated 05.07.2021 refers to no material on the basis of which the action for suspension of the Petitioners was taken.

4. The impugned resolution does not show as to what was the material relied on while identifying 12 MLA's from a huge crowd of people while bringing the action of suspension. The impugned resolution alludes to unruly behavior on the floor of the house and outside the Chamber of the Speaker. The video footage of the alleged incident, which is in public domain shows a large crowd of people and there is absolutely no way of identifying the 12 MLA's who have been suspended. Further, the Minister who brought the motion was not even present in the chamber of the Speaker.
5. This Hon'ble Court was dealing with a similar issue in the case of *Alagaapuram R. Mohanraj and Ors. VS Tamil Nadu Legislative Assembly and Anr reported in (2016) 6 SCC 82*. In the said case a total of 16 MLA's were suspended and the Privilege Committee recommended action against 6 of them. This Hon'ble Court in Para 35 held, "...*In this Light, the question is: How did Privileges Committee identify 6 members as having breached the privilege of the house.*"

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6. However, in the present case, the resolution makes no reference to the material such as video footage etc. which has been relied upon before bringing an action for suspension. The Petitioners therefore submit that they are at a loss to understand as to how the 12 MLA's were identified from such a huge crowd and what was the material relied on to identify these 12 MLA's. It is reiterated that the video footage of the 2 incidents show a huge crowd of people.

7. Because, a perusal of the impugned resolution dated 05.07.2021 clearly shows that the resolution for suspension was brought for alleged unruly behavior/misconduct and not for Breach of Privilege. Suspension of members for unruly behavior is squarely covered by Rule 53 of the MLS Rules. Further, the power under Rule 53 is to exercised solely by the Speaker after complying with the principles of natural justice and fair play.

8. The Chairman erred in putting the resolution for voting. It is reiterated that power under Rule 53 of the MLS Rules which applies to suspension of unruly behavior is solely exercisable by the speaker. This provision is engrafted to put a check on the majoritarian attitude of the Government which obviously enjoys a majority in the house. Thus, the power is made exercisable solely by the Speaker in as much as the Speaker is expected to act fairly towards both sides. It is submitted that a motion for

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unruly behavior can never be a subject matter of voting since that would enable the Government to virtually wipe out the opposition on any minor acts by suspending as many members of the opposition as it deems fit.

LIST OF DATES AND EVENTS

Date	Events
2021	The monsoon session of the Maharashtra Legislative Assembly was scheduled to be held on 05.07.2021 and 06.07.2021. In the meeting of the Business Advisory Committee, which precedes the actual assembly session, there was a concerted effort on behalf of the ruling government to cut short the assembly session for a period of 2 days especially when the State is being faced with a myriad of issues which ought to have been discussed in the house.
05.07.2021	On 05.07.2021, the House was being presided over by such a Chairman nominated under Rule 8 of the MLS Rules. The business of the House was being transacted in a totally unilateral manner, where the members of the Opposition were being denied the opportunity to raise

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important questions and to express their views on matters of public importance. On one such occasion, when a Minister was moving a resolution in relation to the empirical data pertaining to the OBC, the Hon'ble Leader of Opposition objected to the same. The Chairman presiding over the house, denied an opportunity to the Leader of Opposition to express his views on the matter. This led to heated exchanges between the members on both sides and consequently the house was adjourned.

05.07.2021

Thereafter, the members of the Opposition went to meet the duly elected Deputy Speaker in his chamber to vent out their grievances against the patently unfair attitude of the Chairman presiding over the house. At the time some members of the Shiv Sena arrived there along with the Chairman and heated exchanges between members ensued. It is pertinent to submit that on resumption of the House, the Chairman admitted from the Chair that some members of Shiv Sena were present and involved in the incident. However, no action has been taken against them for obvious reasons. It is also pertinent to

submit that the tension was immediately diffused and the crowd dispersed after apologizing to each other.

05.07.2021 On resumption of the House, a sincere apology was tendered on behalf of the Opposition to the Chairman for the incident. It was categorically mentioned that none of the MLA's of the BJP including the petitioners abused the Chairman. At any rate, serious regret was expressed by the Opposition. Be that as it may, a resolution for suspension of 12 MLA's, including the Petitioners was moved by the Minister of Legislative Affairs. The Resolution states that 12 MLA's from the BJP addressed the Chairman in foul language and tried to snatch and pull his microphone. It further states that said 12 MLA's repeated their behavior in the Speakers chamber and abused and manhandled the Chairman. The resolution therefore proposes suspension of 12 MLA's of the BJP including the Petitioners for a period of 1 year. The resolution moved by the Minister of Legislative Affairs was thereafter erroneously put to vote by the very same Chairman and was passed by voting.

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- 07.07.2021 The Leader of Opposition issued 4 letters dated 07.07.2021 to the Hon'ble Deputy Speaker seeking the following:
- i. CCTV Footage for 05.07.2021 of the alleged manhandling of the Chairman which allegedly occurred in the Chamber of the Speaker.
 - ii. Video recording of the entire proceedings of the House for 05.07.2021 and 06.07.2021
 - iii. CCTV footage of the area in front of the Speakers Chamber dated 05.07.2021
 - iv. Copy of the entire Verbatim Proceedings of the record of the Legislative Assembly for 05.07.2021 and 06.07.2021.
- 08.07.2021 Petitioner No. 1 also issued 2 letters dated 08.07.2021 to the Hon'ble Deputy Speaker seeking: (i) Questions which were submitted by the Opposition and were allowed to be lapsed; (ii) Point of order raised by the Leader of Opposition seeking time for discussion on bills and Point of Information raised by Shri Bhaskar Jadhav; (iii) CCTV footage for 05.07.2021 and 06.07.2021 for the

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aforementioned time. The letters issued by Petitioner No. 1 contained a categorical assertion that the same were required to be produced before this Hon'ble Court.

15.07.2021 Respondent No. 1 issued a letter dated 15.07.2021 bearing No. 11017 to Petitioner No. 1 stating that the Deputy Speaker had directed that the application for record of the proceedings may be resubmitted after the Official Report of the proceedings is published as per Rule 312. Respondent No. 1 issued another letter bearing No. 11015 dated 15.07.2021 to Petitioner No. 1 refusing to give the video footage on the basis of a memorandum issued by the Secretariat of the Legislative Assembly. It is submitted that Rule 315(3) of the MLS Rules requires the Speaker to take a decision on the matter and it is for this reason that Petitioner No. 1 had categorically stated in his application that the video footage was required for presenting it before this Hon'ble Court.

22.07.2021 Respondent No. 1 issued similar letters to the Leader of Opposition thereby avoiding to furnish the requisite information. The Petitioners submit that the reply by

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Respondent No. 1 shows the ex facie malicious approach and an attempt to conceal the information. The Petitioners being aggrieved by the aforesaid resolution dated 05.07.2021 are constrained to file the present writ Under Article 32 of the Constitution of India in as much as the impugned resolution violates Article 14.

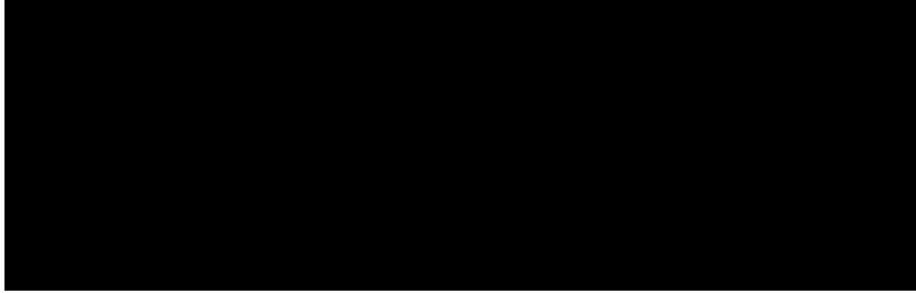
IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) NO. _____ OF 2021

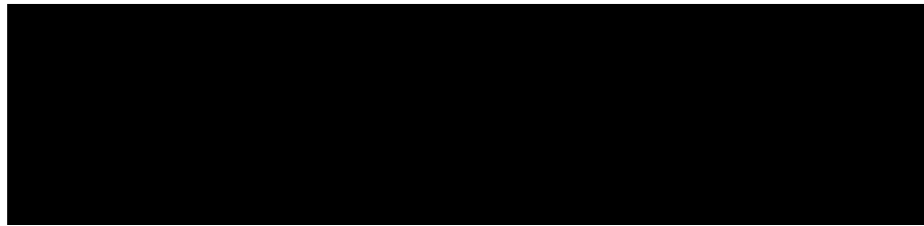
(Under Article 32 of the Constitution of India)

IN THE MATTER OF:

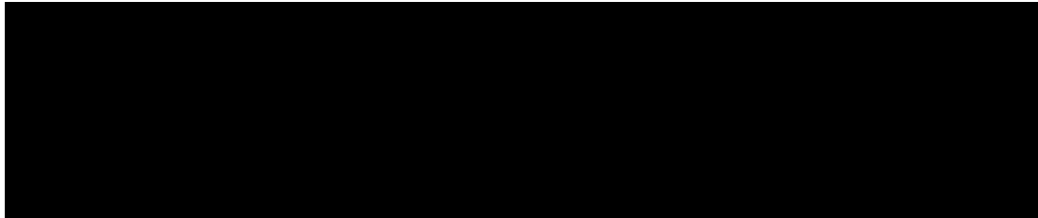
1. Ashish Shelar



2. Atul Bhatkhalkar,

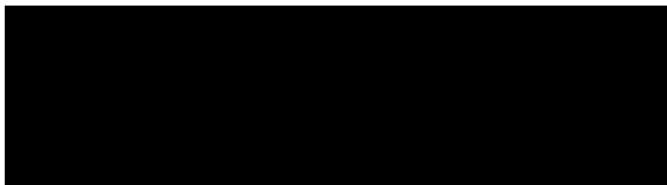


3. Abhimanyu D Pawar,

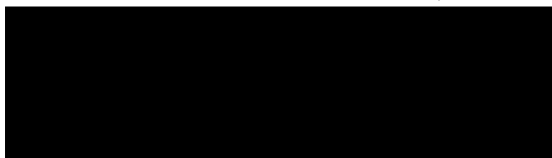


// VERSUS //

1. The Maharashtra Legislative Assembly,



2. The State of Maharashtra,



...RESPONDENTS

TO,

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

THE HUMBLE WRIT PETITION OF
THE PETITIONERS ABOVE-NAMED

MOST RESPECTFULLY SHOWETH:

1. By way of the present Writ Petition, the Petitioners are challenging the ex-facie arbitrary, capricious and malafide resolution dated 05.07.2021 passed by Respondent No. 1 suspending the petitioners from the Maharashtra Legislative Assembly for a period of one year and further restraining them from entering the premises of the Maharashtra Legislative Assembly for a period of one year. The Resolution dated 05.07.2021 has been passed in flagrant violation of Article 14 of the Constitution of India inasmuch as the petitioners were not even granted an opportunity of hearing or for furnishing their written explanation before imposing such harsh penalty. Further, the resolution also suffers from the vice of arbitrariness having been passed without any application of mind whatsoever. Further, the said resolution has been passed without the authority of law.
 - 1A. That the Petitioners have not approached before any concerned authority for similar relief.
2. The petitioners are members of the Bhartiya Janata Party (BJP) and are duly elected members of the

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Maharashtra Legislative Assembly. The Petitioner No.1 is elected from the Constituency of Bandra (West), Mumbai. Petitioner No.2 represents the constituency of Kandivali (East), Mumbai. Whereas the Petitioner No. 3 is the elected representative of constituency of Ausa, Latur. The BJP is the principal opposition party in the Maharashtra Legislative Assembly. The Ruling Party is a coalition between the Shiv Sena, The Nationalist Congress Party (NCP) and the Indian National Congress (INC) named as "Maha Vikas Aghadi".

3. The monsoon session of the Maharashtra Legislative Assembly was scheduled to be held on 05.07.2021 and 06.07.2021. The proceedings of the House on 05.07.2021 witnessed heated exchanges between the members of the Opposition Party and the Ruling Party for the reason that the business of the house was being conducted in a unilateral manner, with a conscious and engineered effort to suppress the voice of the opposition party. On a particular motion, the Hon'ble Leader of Opposition was denied an opportunity to respond. This led to heated exchanges between the members of the ruling party and the opposition party. The impugned suspension is a fall out of the same and is purely political in nature.
4. The petitioners submit that the impugned resolution dated 05.07.2021 falls foul of the principles enshrined in Article 14 of the Constitution of India. Firstly, there was a total failure in complying with the Rules of natural justice,

inasmuch as, the petitioners were not even granted an opportunity of hearing or at least to submit their written explanation. Secondly, the impugned resolution has been passed in an ex-facie arbitrary manner. A perusal of the resolution would show that there was absolutely no material before the respondent to identify the petitioners from a large crowd. It is absolutely baffling as to how, when moving the motion for suspension, the Petitioners or the 12 MLA's were identified by the Minister from a huge crowd.

5. The motion for suspension was admittedly not for breach of privilege. This being so, the sole power to suspend members for alleged misconduct or unruly behavior is referable to Rule 53 of the Maharashtra Assembly Rules, 1960 ("MLS Rules"). The exercise of power under Rule 53 can never be a matter of voting and is solely exercisable by the Speaker after application of mind. Further, Rule 53 prescribes the maximum period of suspension which cannot be more than remainder of the Session.
6. The period of the impugned suspension is grossly unfair and disproportionate. There is absolutely no basis for imposing a suspension of such a long period. Such action if allowed to stand, would enable the Ruling Party to wipe out the entire opposition for any period of time it deems fit.
7. The impugned resolution dated 05.07.2021 is nothing short of political vendetta and has been passed to whittle

down the opposition numbers. Further, the impugned resolution has the result of leaving 12 Constituencies in the State of Maharashtra to go unrepresented for 1 year which is an anathema to parliamentary democracy.

8. BRIEF FACTS OF THE CASE ARE:

- 8.1.** The monsoon session of the Maharashtra Legislative Assembly was scheduled to be held on 05.07.2021 and 06.07.2021. In the meeting of the Business Advisory Committee, which precedes the actual assembly session, there was a concerted effort on behalf of the ruling government to cut short the assembly session for a period of 2 days especially when the State is being faced with a myriad of issues which ought to have been discussed in the house. Further, various questions which are required to be submitted in advance were lapsed by the ruling party and thus even written answers were not given. Further, the members of the opposition were stripped of all legislative tools so as to ensure that the voice of the opposition is muffled and suppressed. The entire chain of facts leading up to the actual session of the Assembly was thus designed to wrap up the business of the house in a short span of 2 days in a slipshod manner.
- 8.2.** It is submitted that presently the Chair of the Speaker of the House is vacant since the last incumbent stepped down and the election for

appointing a new Speaker of the Assembly have not been held. The Maharashtra Legislative Assembly Rules, 1960 (“MLS Rules”) have been framed in exercise of powers under Article 208 of the Constitution Of India. Rule 6 provides for the procedure for election of Speaker and Rule 7 provides for election of Deputy Speaker. Rule 8 provides that the Speaker shall nominate a panel of not more than 4 Chairmen from the members of the house whom may preside over the assembly in the absence of the Speaker/Deputy Speaker. It is worthwhile to point out that the only mandate of such a Chairman presiding over the house is only to ensure smooth functioning of the house in the absence of the Speaker/Deputy Speaker. On stepping down from the Chair, such Presiding Officer is required to again sit in his seat of MLA and thus ceases to act in the capacity of the Speaker.

- 8.3.** The Petitioners submit that on 05.07.2021, the House was being presided over by such a Chairman nominated under Rule 8 of the MLS Rules. The business of the House was being transacted in a totally unilateral manner, where the members of the Opposition were being denied the opportunity to raise important questions and to express their views on matters of public importance. no opportunity to speak. On one such occasion, when a Minister was moving a resolution

in relation to the empirical data pertaining to the OBC, the Hon'ble Leader of Opposition objected to the same. The Chairman presiding over the house, denied an opportunity to the Leader of Opposition to express his views on the matter. This led to heated exchanges between the members on both sides and consequently the house was adjourned.

8.4. Thereafter, the members of the Opposition went to meet the duly elected Deputy Speaker in his chamber to vent out their grievances against the patently unfair attitude of the Chairman presiding over the house. At the time some members of the Shiv Sena arrived there along with the Chairman and heated exchanges between members ensued. It is pertinent to submit that on resumption of the House, the Chairman admitted from the Chair that some members of Shiv Sena were present and involved in the incident. However, no action has been taken against them for obvious reasons. It is also pertinent to submit that the tension was immediately diffused and the crowd dispersed after apologizing to each other.

8.5. On resumption of the House, a sincere apology was tendered on behalf of the Opposition to the Chairman for the incident. It was categorically mentioned that none of the MLA's of the BJP including the petitioners abused the Chairman. At any rate, serious regret was expressed by the

Opposition. Be that as it may, a resolution for suspension of 12 MLA's, including the Petitioners was moved by the Minister for Parliamentary Affairs. The Resolution states that 12 MLA's from the BJP addressed the Chairman in foul language and tried to snatch and pull his microphone. It further states that said 12 MLA's repeated their behavior in the Speakers chamber and abused and manhandled the Chairman. The resolution therefore proposes suspension of 12 MLA's of the BJP including the Petitioners for a period of 1 year.

8.6. The resolution moved by the Minister for Parliamentary Affairs was thereafter erroneously put to vote by the very same Chairman and was passed by voting. Annexed hereto and marked as **ANNEXURE P-1 (Page Nos. 22 to 24)** is a true translated copy of the resolution dated 05.07.2021. The Leader of Opposition issued 4 letters dated 07.07.2021 to the Hon'ble Deputy Speaker seeking the following:

- i. CCTV Footage for 05.07.2021 of the alleged manhandling of the Chairman which allegedly occurred in the Chamber of the Speaker.
- ii. Video recording of the entire proceedings of the House for 05.07.2021 and 06.07.2021
- iii. CCTV footage of the area in front of the Speakers Chamber dated 05.07.2021

- iv. Copy of the entire Verbatim Proceedings of the record of the Legislative Assembly for 05.07.2021 and 06.07.2021.

Annexed hereto and marked as **ANNEXURE P-2** (Page No. 25) is the true translated copy of letter dated 07.07.2021 issued by the Leader of Opposition regarding furnishing of CCTV Footage of chamber of the Hon'ble Speaker adjacent to the House.

Annexed hereto and marked as **ANNEXURE P-3** (Page No. 26) is the true translated copy of letter dated 07.07.2021 issued by the Leader of Opposition regarding furnishing of the Video Footage of the business of the House.

Annexed hereto and marked as **ANNEXURE P-4** (Page No. 27) is the true translated copy of letter dated 07.07.2021 issued by the Leader of Opposition regarding furnishing of CCTV Footage of the area in front of the chamber of the Hon'ble Speaker.

Annexed hereto and marked as **ANNEXURE P-5** (Page No. 28) is the true translated copy of letter dated 07.07.2021 issued by the Leader of Opposition regarding furnishing of record of the Verbatim Proceedings of the House.

- 8.7. Petitioner No. 1 also issued 2 letters dated 08.07.2021 to the Hon'ble Deputy Speaker seeking: (i) Questions which were submitted by the Opposition and were allowed to be lapsed; (ii)

Point of order raised by the Leader of Opposition seeking time for discussion on bills and Point of Information raised by Shri Bhaskar Jadhav; (iii) CCTV footage for 05.07.2021 and 06.07.2021 for the aforementioned time. The letters issued by Petitioner No. 1 contained a categorical assertion that the same were required to be produced before this Hon'ble Court. Reference in this regard may be made to Rule 315 of the MLS Rules. Annexed hereto and marked as **ANNEXURE P-6 (Page Nos. 29 to 30)** is the true translated copy of the letter dated 08.07.2021 issued by Petitioner No. 1 to the Hon'ble Deputy Speaker regarding furnishing Certified Copy of the record (Verbatim Proceeding) of the House for presenting before the Hon'ble Court, and annexed hereto and marked as **ANNEXURE P-7 (Page Nos. 31 to 33)** is the true translated copy of the letter dated 08.07.2021 issued by Petitioner No. 1 to the Hon'ble Deputy Speaker regarding furnishing of the video footage of the business of the House for submitting before the Hon'ble Court.

- 8.8.** Respondent No. 1 issued a letter dated 15/7/2021 bearing No. 11017 to Petitioner No. 1 stating that the Deputy Speaker had directed that the application for record of the proceedings may be resubmitted after the Official Report of the proceedings is published as per Rule 312. Annexed hereto and marked as **ANNEXURE P-8**

(Page Nos. 34 to 35) is a true translated copy of Letter No. 11017/M.V.S./Y Desk dated 15.07.2021 issued by Respondent No. 1 to Petitioner No.1. Respondent No. 1 issued another letter bearing No. 11015 dated 15.07.2021 to Petitioner No. 1 refusing to give the video footage on the basis of a memorandum issued by the Secretariat of the Legislative Assembly. It is submitted that Rule 315(3) of the MLS Rules requires the Speaker to take a decision on the matter and it is for this reason that Petitioner No. 1 had categorically stated in his application that the video footage was required for presenting it before this Hon'ble Court. The Petitioners submit that a Memorandum issued by the Secretariat cannot supersede the Rules framed under the Constitution. Annexed hereto and marked as **ANNEXURE P-9 (Page Nos. 36 to 37)** is a true translated copy of Letter No. 11015/M.V.S./Y Desk dated 15.07.2021 issued by Respondent No. 1 to Petitioner No.1.

- 8.9.** Respondent No. 1 issued similar letters to the Leader of Opposition thereby avoiding to furnish the requisite information. The Petitioners submit that the reply by Respondent No. 1 shows the ex facie malicious approach and an attempt to conceal the information. The Petitioners being aggrieved by the aforesaid resolution dated 05.07.2021 are constrained to file the present writ Under Article 32 of the Constitution of India in as

much as the impugned resolution violates Article 14.

9. QUESTIONS OF LAW:

- 9.1.** Whether the impugned resolution dated 05.07.2021 is in gross violation of Article 14 of the Constitution of India since the Petitioners were never given an opportunity of being heard or at least to offer a written explanation?
- 9.2.** Whether the impugned resolution is arbitrary and therefore in violation of Article 14 in as much as the same shows total non-application of mind by the Chairman?
- 9.3.** Whether the impugned resolution is ex facie arbitrary in view of the fact that there was absolutely no material before the Speaker or for that matter the Minister for Parliamentary Affairs for identifying the 12 MLA's from a huge crowd and to ascertain their individual roles?
- 9.4.** Whether in the absence of an allegation for Breach of Privilege, the power to suspend members of the Legislative Assembly only for unruly behavior lies exclusively with the Speaker under Rule 53 of the MLS Rules which has to be exercised on well settled principles of natural justice and fair play?
- 9.5.** If the power to suspend members purely on account of unruly behavior vests exclusively in the

Speaker under Rule 53 of the MLS Rules, can the maximum period of suspension prescribed under Rule 53 be exceeded purely on the *ipse dixit* of the ruling party?

9.6. Whether in the absence of a case of Breach of Privilege, can a motion for suspension of members for unruly behavior be put to voting, thereby placing the fate of opposition MLA's purely in the hands of the ruling party?

9.7. Whether an alleged exchange of heated words outside the house with a Panel Chairman nominated under Rule 8 who ceases to act in the capacity of a Speaker on stepping down from the Chair can lead to a suspension?

9.8. Whether the suspension of the Petitioners for a period of One year is grossly disproportionate?

10. GROUNDS:

That the present Writ Petition has been filed on the following amongst other grounds:

10.1. Because the Petitioners have approached this Hon'ble Court under Article 32 of the Constitution for enforcement of their fundamental rights guaranteed under Articles 14 of the Constitution.

10.2. Because the impugned resolution dated 05.07.2021 has been passed in undue haste and

is politically motivated to whittle down the numbers of the Opposition Party. The impugned resolution having been passed with undue haste, the requirements of Article 14 of the Constitution of India have been completely brushed aside. It was incumbent upon Respondent No. 1 to grant an opportunity of hearing or at least call for a written explanation from the Petitioners. This Hon'ble Court in the case of *Alagaapuram R. Mohanraj and Ors. VS Tamil Nadu Legislative Assembly and Anr reported in (2016) 6 SCC 82* while dealing with the issue of suspension of MLA's has clearly held that "*....the Privileges Committee should have necessarily offered this opportunity, in order to make the process adopted by it compliant with the requirement of Article 14.*" It further held "*...The failure to supply a copy of the video recording or affording an opportunity to the petitioners to view the recording relied upon by the Committee in our view clearly resulted in the violation of principles of natural justice i.e. a denial of a reasonable opportunity to meet the case*".

- 10.3.** This Hon'ble Court therefore has clearly held that denial of reasonable opportunity to meet the case does result in violation of principles of natural justice. Tested on the anvil of the law laid down by this Hon'ble Court, the impugned resolution falls foul of the requirement of Article 14. It was incumbent upon Respondent No. 1 to grant some

opportunity to the Petitioners to meet the case against them. The record of the proceedings would show that the entire action was proposed and the resolution was passed within a matter of hours. The petitioners therefore submit that the impugned resolution deserves to be quashed being patently violative of Article 14 of the Constitution of India.

10.4. Because the impugned resolution shows total non-application of mind by the Chairman as well as by the Minister for Parliamentary Affairs who moved the resolution. Admittedly, as the official video recording would show, the Chairman has admitted from the Chair that some members of the Shiv Sena were also present in the Chamber of the Speaker and were involved in the incident. This being so, there was absolutely no material before the Chairman or the Minister to sustain the action of suspension of the Petitioners. Even the impugned resolution dated 05.07.2021 refers to no material on the basis of which the action for suspension of the Petitioners was taken.

10.5. Because, the impugned resolution does not show as to what was the material relied on while identifying 12 MLA's from a huge crowd of people while bringing the action of suspension. The impugned resolution alludes to unruly behavior on the floor of the house and outside the Chamber of the Speaker. The video footage of the alleged

incident, which is in public domain shows a large crowd of people and there is absolutely no way of identifying the 12 MLA's who have been suspended. Further, the Minister who brought the motion was not even present in the chamber of the Speaker. This Hon'ble Court was dealing with a similar issue in the case of *Alagaapuram R. Mohanraj and Ors. VS Tamil Nadu Legislative Assembly and Anr reported in (2016) 6 SCC 82*. In the said case a total of 16 MLA's were suspended and the Privilege Committee recommended action against 6 of them. This Hon'ble Court in Para 35 held, "...*In this Light, the question is: How did Privileges Committee identify 6 members as having breached the privilege of the house.*" This Hon'ble Court therefore held that the Privileges Committee ought to have granted an opportunity to the 6 MLA's to see the video recordings and then perhaps they could explain their case.

- 10.6.** However, in the present case, the resolution makes no reference to the material such as video footage etc. which has been relied upon before bringing an action for suspension. The Petitioners therefore submit that they are at a loss to understand as to how the 12 MLA's were identified from such a huge crowd and what was the material relied on to identify these 12 MLA's. It is reiterated that the video footage of the 2 incidents show a huge crowd of people. It is also reiterated that the

Chairman has admitted from the Chair that some members of Shiv Sena were also present in the Speaker Chamber. This being the case, the action of isolating 12 people from a huge crowd in the absence of any material to identify them and further taking no action against the members of Shiv Sena is grossly arbitrary and therefore violative of Article 14.

- 10.7.** Because, a perusal of the impugned resolution dated 05.07.2021 clearly shows that the resolution for suspension was brought for alleged unruly behavior/misconduct and not for Breach of Privilege. Suspension of members for unruly behavior is squarely covered by Rule 53 of the MLS Rules. Further, the power under Rule 53 is to exercised solely by the Speaker after complying with the principles of natural justice and fair play.
- 10.8.** Because, the Chairman erred in putting the resolution for voting. It is reiterated that power under Rule 53 of the MLS Rules which applies to suspension of unruly behavior is solely exercisable by the speaker. This provision is engrafted to put a check on the majoritarian attitude of the Government which obviously enjoys a majority in the house. Thus, the power is made exercisable solely by the Speaker in as much as the Speaker is expected to act fairly towards both sides. It is submitted that a motion for unruly behavior can

never be a subject matter of voting since that would enable the Government to virtually wipe out the opposition on any minor acts by suspending as many members of the opposition as it deems fit. The Petitioners submit that the impugned resolution thus could not have been passed by voting.

10.9. Because, Rule 53 of the MLS Rules prescribes the maximum period of suspension not exceeding remainder of the Sessions. Since suspension for unruly behavior/misconduct is solely referable to Rule 53 of the MLS Rules, the suspension could not have exceeded the prescribed period. The Petitioners submit that the period of 1 year is therefore grossly arbitrary and disproportionate in as much as there is no yardstick to decide the period. If the present action is allowed to stand, the Government could very well suspend members for 5 years on the basis of voting.

10.10. Because, a Chairman nominated under Rule 8 of the MLS Rules, 1960 loses the character of the Speaker the moment he steps down from the Chair. To the contrary, a duly elected Speaker of the House continues to act in his capacity as a Speaker even after the conclusion of the Session. The Chairman after stepping down from the Speaker's chair continues to act as a MLA. Thus, even assuming that a heated exchange occurred

between him and the Petitioners outside the House, the same would not invite an action for suspension.

10.11. Because, the Chairman nominated under Rule 8 of the MLS Rules, 1960 was not empowered to exercise the powers under rule 53 considering the fact that the office of Deputy Speaker of the House is functioning. As per Article 180 of the Constitution, in the absence of the Hon'ble Speaker, the Deputy alone is empowered to perform the functions for an on behalf of the same. Therefore, the Resolution dated 05.07.2021 passed by Respondent No. 1 is non-est in law and has been passed without the authority of law.

10.12. Because in light of the aforementioned facts and circumstances, the Petitioners most humbly submit that the impugned resolution passed by Respondents No. 1 is violative of Article 14 of the constitution, for having been passed without any legal basis.

11. The Petitioners have no alternative and efficacious remedy other than to invoke the extraordinary jurisdiction of this Hon'ble Court under Article 32 of the Constitution of India.

12. The Petitioners state that no other Writ Petition has been filed by the Petitioner seeking similar relief before any other High Court or before this Hon'ble Court.

13. The Petitioners crave leave to alter and amend any grounds mentioned hereinabove.

PRAYER

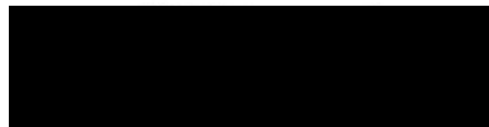
In the grounds set forth above, it is therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

[A] Issue a writ of mandamus/certiorari, or a writ in the nature of mandamus or certiorari, or any other appropriate writ, order or direction, or any other appropriate writ quashing and setting aside the Resolution dated 05.07.2021 passed by Respondent No. 1;

[B] Pass any other Order or direction as this Hon'ble Court may deem fit in the facts and circumstances of the present case.

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

FILED BY



[ABHIKALP PRATAP SINGH]
ADVOCATE FOR THE PETITIONERS

DRAWN ON: 21.07.2021
FILED ON: 22.07.2021
NEW DELHI

IN THE SUPREME COURT OF INDIA

EXTRAORDINARY ORIGINAL JURISDICTION

WRIT PETITION (C) No. _____ OF 2021

IN THE MATTER OF:

Ashish Shelar & Ors.


...Petitioners

Versus

The Maharashtra Legislative Assembly & Anr.

...Respondents

AFFIDAVIT

- 
1. That I am the Writ Petitioner No. 1 in the above referred Writ Petition & authorised by other Petitioners and as such I am well conversant with the facts of the case & competent to swear this affidavit.
 2. I say that the contents of Synopsis & List of Dates at Pages B to L and contents of accompanying Writ Petition as contained at paras 1 to 13 at pages 1 to 20 are true & correct to my knowledge and information derived from the record of the case and those submissions of law made in the accompanying Writ Petition are true as per the legal advice received and believed to be true. I also state that the contents of accompanying I.As. are true and correct to the best of my knowledge and belief.
 3. That the contents of accompanying Writ Petition have been drafted by Counsel under my instructions and same may be read as part and parcel to this affidavit and are not being reproduced herein for the sake of brevity.
 4. That the Annexures to the accompanying Writ Petition are true and correct copies of their respective originals.


DEPONENT**VERIFICATION:**

I the above-named Deponent do hereby verify that the averments stated herein above in paragraphs 1 to 4 are true to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at Mumai on this the 21st day of July, 2021.


DEPONENT

ANNEXURE P-1**MAHARASHTRA LEGISLATIVE ASSEMBLY**

From:

Secretary,
Maharashtra Legislative Assembly

To,

1. Dr. Sanjay Kute, M.L.A.
2. Adv. Ashish Shelar, M.L.A.
3. Shri Abhimanyu Pawar, M.L.A.
4. Shri Girish Mahajan, M.L.A.
5. Shri Atul Bhatkhalkar, M.L.A.
6. Adv. Parag Alvani, M.L.A.
7. Shri Harish Pimple, M.L.A.
8. Shri Ram Satpute, M.L.A.
9. Shri Jaikumar Rawal, M.L.A.
10. Shri Yogesh Sagar, M.L.A.
11. Shri Narayan Kuche, M.L.A.
12. Shri Kirtikumar @ Bunt
Bhangdia, M.L.A.

Sir,

As directed, a copy of the resolution passed by the Legislative Assembly on 5th July, 2021 is being sent to you herewith

Yours,

Sd/-
(Shivdarshan Sathye)
Deputy Secretary,
Secretariat, Maharashtra Legislative Assembly

05/07/2021 (Draft/ Not for Publication) S-4
GSS/AKN/SST Initially by Kumari Girap 14:40

P.H. : Contempt of the House by objectionable behavior

M.H.: Resolution of Minister for Parliamentary Affairs regarding suspension of M.L.A.s for Contempt of the House due to objectionable behavior.

- 1) Dr. Sanjay Kute,
- 2) Adv. Ashish Shelar,
- 3) Shri Abhimanyu Pawar
- 4) Shri Girish Mahajan
- 5) Shri Atul Bhatkhalkar,
- 6) Adv. Parag Alavani,
- 7) Shri Harish Pimple
- 8) Shri Ram Satpute,
- 9) Shri Jaikumar Rawal,
- 10) Shri Yogesh Sagar,
- 11) Shri Narayan Kuche,
- 12) Shri Kirtikumar @ Buntly Bhangdiya, M.L.A.

Adv. Anil Parab (Minister for Parliamentary Affairs): Hon'ble Speaker, I wish to move the following resolution with your kind permission.

“On 5th July 2021 when the business of the House was being conducted, Hon'ble M.L.As Dr. Sanjay Kute, Adv. Ashish Shelar, Sarvashree Abhimanyu Pawar, Girish Mahajan, Atul Bhatkhalkar, Adv. Parag Alvani, Sarvashree Harish Pimple, Ram Satpute, Jaikumar Rawal, Yogesh Sagar, Narayan Kuche,

Kirtikumar @ Buntty Bhangdia misbehaved in the House, addressed the Chairman in the Speaker's Chair unparliamentary language, tried to take the mike and Rajdand, despite repeated warnings, all these members misbehaved in the chamber of the Hon'ble Speaker even after the House was adjourned and abused and manhandled the Chairman in the Speaker's Chair. Due to the indisciplined and unbecoming behavior resulting in maligning the dignity of the House, this House resolves to suspend the membership of Sarvashree Dr. Sanjay Kute, Adv. Ashish Shelar, Sarvashree Abhimanyu Pawar, Girish Mahajan, Atul Bhatkhalkar, Adv. Parag Alvani, Sarvashree Harish Pimple, Ram Satpute, Jaikumar Rawal, Yogesh Sagar, Narayan Kuche, Kirtikumar @ Buntty Bhangdia for a period of one year. Similarly, during the period of suspension they may be restrained from entering into the premises of Vidhan Bhawan at Mumbai and Nagpur.”

Hon'ble Speaker, I request the House to pass this resolution.

Resolution has been tabled.

Chairman in the Speaker's Chair : Now I put this resolution to vote.

Resolution has been passed after putting it to vote.



//TRUE COPY//

ANNEXURE P-2

O.W. No. V.P.N./M.V.S./V.I.P./ 263/2021

DEVENDRA FADNAVIS
LEADER OF OPPOSITION, MAHARASHTRA
LEGISLATIVE ASSEMBLY

Date : 07/07/2021

Inward Entry, Office of Secretary, M.L.A.
No. Dt.07/07/21 Time : 3.25 p.m.To,
Hon'ble Deputy Speaker,
Maharashtra Legislative Assembly.**Subject: Regarding furnishing of CCTV Footage of chamber of the Hon'ble Speaker adjacent to the House.**

Sir,

The Monsoon Session of the Maharashtra Legislative Assembly was held on 5th and 6th July 2021 at Mumbai. In the aforesaid Monsoon Session 12 members of the opposition party came to be suspended. It has been mentioned in the resolution in this regard that, "*...despite repeated warnings, all these members misbehaved in the chamber of the Hon'ble Speaker even after the House was adjourned and abused and manhandled the Chairman in the Speaker's Chair....*"

It is requested that the CCTV Footage of the aforesaid incident mentioned in the resolution may be furnished to me, if available.

Yours,
Sd/-
(Devendra Fadnavis)Copy to :
The Secretary, Maharashtra Legislative Assembly.

ANNEXURE P-3

O.W. No. V.P.N./M.V.S./V.I.P./ 264/2021

DEVENDRA FADNAVIS
LEADER OF OPPOSITION, MAHARASHTRA
LEGISLATIVE ASSEMBLY

Date : 07/07/2021

To,
Hon'ble Deputy Speaker,
Maharashtra Legislative Assembly.

**Subject: Regarding furnishing of the Video Footage of the
business of the House.**

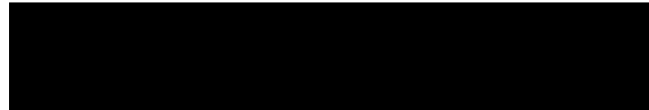
Sir,

The Monsoon Session of the Maharashtra Legislative Assembly was held on 5th and 6th July 2021 at Mumbai. I request you to kindly make available to me the video recording of the business of the House for both the days.

Yours,

Sd/-
(Devendra Fadnavis)

Copy to :
The Secretary, Maharashtra Legislative Assembly.



//TRUE COPY//

ANNEXURE P-4

O.W. No. V.P.N./M.V.S./V.I.P./ 265/2021

DEVENDRA FADNAVIS
LEADER OF OPPOSITION, MAHARASHTRA
LEGISLATIVE ASSEMBLY

Date : 07/07/2021

To,

Hon'ble Deputy Speaker,
Maharashtra Legislative Assembly.

**Subject: Regarding furnishing of CCTV Footage of the
area in front of the chamber of the Hon'ble
Speaker**

Sir,

The Monsoon Session of the Maharashtra Legislative Assembly was held on 5th and 6th July 2021 at Mumbai. I request you to kindly make available to me the CCTV Footage of the area in front of the Speaker's Chamber situated adjacent to the House for 05/07/2021 from 11:00 a.m. to 05:00 p.m.

Yours,

Sd/-
(Devendra Fadnavis)

Copy to :
The Secretary, Maharashtra Legislative Assembly.

Inward Entry, Office of Secretary, M.L.A.
No. Dt.07/07/21 Time : 3.24 p.m.

ANNEXURE P-5

O.W. No. V.P.N./M.V.S./V.I.P./ 266/2021

DEVENDRA FADNAVIS
LEADER OF OPPOSITION, MAHARASHTRA
LEGISLATIVE ASSEMBLY

Date : 07/07/2021

Inward Entry, Office of Secretary, M.L.A.
No. Dt.07/07/21 Time : 3.25 p.m.

To,
Hon'ble Deputy Speaker,
Maharashtra Legislative Assembly.

**Subject: Regarding furnishing of record of the Verbatim
Proceedings of the House**

Sir,

The Monsoon Session of the Maharashtra Legislative Assembly was held on 5th and 6th July 2021 at Mumbai. I request to kindly make available to me the entire record (Verbatim Proceedings) for both days.

Yours,

Sd/-
(Devendra Fadnavis)

Copy to :
The Secretary, Maharashtra Legislative Assembly.

//TRUE COPY//

ANNEXURE P-6

MEMBER OF LEGISLATIVE ASSEMBLY
ADV. ASHISH SHELAR, B.Sc. LL.B.
Bandra (West) Constituency,
Ex-Minister, School Education, Sports
and Youth Welfare

Dated : 8th July 2021

Inward Entry, Office of Secretary, M.L.A.
No. Dt.08/07/21 Time : 3.33 p.m.

To,
Hon'ble Deputy Speaker,
Maharashtra Legislative Assembly,
Vidhan Bhavan, Mumbai.

Subject: Regarding furnishing Certified Copy of the record (Verbatim Proceeding) of the House for presenting before the Hon'ble Court.

Sir,

The Monsoon Session of the Maharashtra Legislative Assembly was held on 5th and 6th July 2021 at Mumbai.

- I request you to kindly make available to me the information on the following points from the business of the House conducted on 5th July 2021.
 1. The un-stared point raised by the Hon'ble Leader of Opposition regarding treating of lapsed questions as un-stared questions and regarding granting of time for in depth reading of Bills
 2. Point of Information raised by the Hon'ble Leader of Opposition.

- I request you to kindly make available to me the information on the following points from the business of the House conducted on 6th July 2021.

3. Point of Information raised by Shri Bhaskar Jadhav, Member of Legislative Assembly.

I need the aforesaid information for filing Writ Petition before the Hon'ble Supreme Court / High Court. I shall submit the number and other details of the writ petition after the same is filed.

It is therefore, humbly requested that the aforesaid information may kindly be made available to me at the earliest.

Yours,

Sd/-
(Adv. Ashish Shelar)

Copy to :
The Secretary, Maharashtra Legislative Assembly.



//TRUE COPY//

ANNEXURE P-7

MEMBER OF LEGISLATIVE ASSEMBLY
ADV. ASHISH SHELAR, B.Sc. LL.B.
Bandra (West) Constituency,
Ex-Minister, School Education, Sports
and Youth Welfare

Dated : 8th July 2021

Inward Entry, Office of Secretary, M.L.A.
No. Dt.08/07/21 Time : 3.33 p.m.

To,
Hon'ble Deputy Speaker,
Maharashtra Legislative Assembly,
Vidhan Bhavan, Mumbai.

Subject: Regarding furnishing of the video footage of the business of the House for submitting before the Hon'ble Court.

Sir,

The Monsoon Session of the Maharashtra Legislative Assembly was held on 5th and 6th July 2021 at Mumbai.

- I request you to kindly make available to me the video recording of the business of the House conducted on 5th July 2021 for the following incidents.
 1. The un-stared point raised by the Hon'ble Leader of Opposition regarding treating of lapsed questions as un-stared questions and regarding granting of time for in depth reading of Bills
 2. Point of Information raised by the Hon'ble Leader of Opposition.

- I request you to kindly make available to me the video recording of the business of the House conducted on 6th July 2021 for the following incidents.

3. Point of Information raised by Shri Bhaskar Jadhav,
Member of Legislative Assembly.

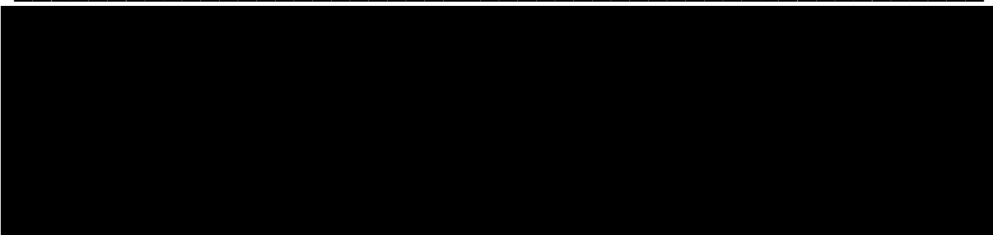
I need the aforesaid information for filing Writ Petition before the Hon'ble Supreme Court / High Court. I shall submit the number and other details of the writ petition after the same is filed.

It is therefore, humbly requested that the aforesaid information may kindly be made available to me at the earliest.

Yours,

Sd/-
(Adv. Ashish Shelar)

Copy to :
The Secretary, Maharashtra Legislative Assembly.



MEMBER OF LEGISLATIVE ASSEMBLY
ADV. ASHISH SHELAR, B.Sc. LL.B.
Bandra (West) Constituency,
Ex-Minister, School Education, Sports
and Youth Welfare

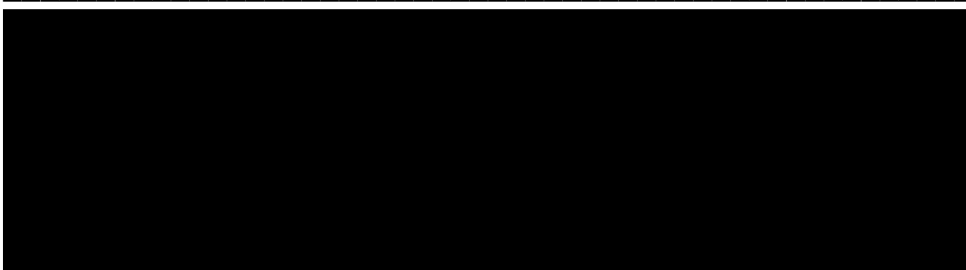
Dated : 8th July 2021

**Ref'nce: Publication No. 16142/K-1, of Maharashtra
Legislative Assembly, Dt. 12th April 2013.**

- UNDERTAKING -

- 1) I/ We, will follow the terms and conditions prescribed by the Secretariat of the Legislative Assembly.
 - A) CDs / DVDs of the business of the House will be used for appropriate purpose.
 - B) CDs/DVDs will not be used for making any misdemeanor or derision.
 - C) I /we will not use the audio-visual publications for advertisement of any political party, election campaigning or commercial advertisement.
 - D) The said publications will be not supplied to any other Agency/ Channel; and
 - E) I/We will not violate / infringe any of the aforementioned conditions.
- 2) While using the CDs/DVDs of the business of the House, if any aggrieved party makes any complaint in this regard, the decision of the Secretariate of the Legislative Assembly will be final and binding.

Yours,
Sd/-
(Adv. Ashish Shelar)



ANNEXURE P-8

Vidhan Bhawan,
Backbay Reclamation,
Vidhan Bhawan Marg,
Mumbai- 400 032.

MAHARASHTRA LEGISLATURE

To,

Adv. Ashish Shelar,
Hon. Member of Legislative Assembly,

**Subject : Regarding furnishing of certified copy of
Verbatim Proceeding of the House for presenting
before the Court.**

Reference : Your application dated 8th July 2021.

Sir,

In connection with the above subject, you are hereby informed that with reference to your application dated July 8, 2021, the Hon'ble Deputy Speaker, Legislative Assembly has directed that "Proceedings should be resumed as per Rule 312 of the M.L.A. Rules". As per the directions of Hon'ble Deputy Speaker, Legislative Assembly, proceedings/action under Rule 312 regarding the concerned Verbatim Proceedings of the Legislative Assembly are/is in progress. Therefore, upon completion of the action under Rule 312 of the M.L.A. Rules,

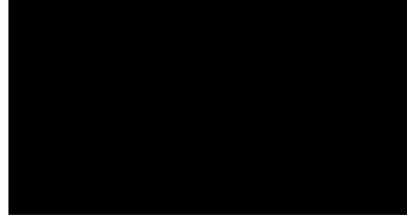
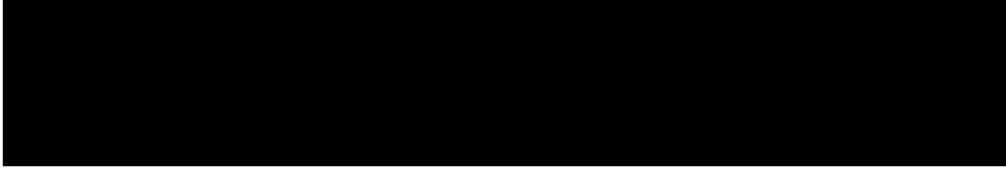
your application dated July 8, 2021 will be resubmitted for the approval before the Hon'ble Deputy Speaker,

Respectfully,

Sd/-
(Rajendra Bhagwat)
Principal Secretary,
Maharashtra Legislative Secretariat



//TRUE COPY//

ANNEXURE P-9**MAHARASHTRA LEGISLATURE**

To,

Adv. Ashish Shelar,
M.L.A.
602, Highland Court, C-Wing,
Bazar Road, Bandra (W),
Mumbai 400 051.

Subject : **Regarding making available video footage of the business of House dated 5th and 6th July, 2021 for submission before the Court.**

Sir,

With reference to the subject noted above, I am directed to inform you that a memorandum regarding "Guidelines and Undertaking" has been issued by the Maharashtra Legislative Secretariat on April 12, 2013 regarding the provision of audio-video CDs / DVDs of the proceedings in the House. The "Undertaking" at Serial No.1 (C) of the said memorandum clearly states that, "the said audio-visual publications will not be used for submission before any Court or Tribunal.". Therefore, for the

above reason, we would like to humbly inform you that it would not be appropriate to make available for you the video footage of the subject and days under reference for Court proceedings.

Respectfully.

Yours faithfully,

Sd/-
(Rajendra Bhagwat)
Principal Secretary,
Maharashtra Legislative Secretariat



//TRUE COPY//

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A. NO. _____ OF 2021

IN

WRIT PETITION (CIVIL) NO. _____ OF 2021

IN THE MATTER OF:

Ashish Shelar & Ors. ... Petitioners

VERSUS

The Maharashtra Legislative Assembly & Anr.
... Respondents

APPLICATION FOR AD INTERIM EX PARTE STAY

TO

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

THE HUMBLE APPLICATION OF THE
PETITIONERS ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The captioned Writ Petition has been filed by the Petitioners under Article 32 of the Constitution of India, challenging the ex-facie arbitrary, capricious and malafide resolution dated 05.07.2021 passed by Respondent No. 1 suspending the petitioners from the Maharashtra Legislative Assembly for a period of one year and further restraining them from entering the premises of the Maharashtra Legislative Assembly for a period of one year. The Resolution dated

05.07.2021 has been passed in flagrant violation of Article 14 of the Constitution of India inasmuch as the petitioners were not even granted an opportunity of hearing or for furnishing their written explanation before imposing such harsh penalty. Further, the resolution also suffers from the vice of arbitrariness having been passed without any application of mind whatsoever.

2. The averments made in the accompanying Writ Petition may be treated as part and parcel of the present application, and the same are not being repeated herein, for the sake of brevity.
3. The Petitioners submit that the impugned resolution dated 05.07.2021 falls foul of the principles enshrined in Article 14 of the Constitution of India. Firstly, there was a total failure in complying with the Rules of natural justice, inasmuch as, the petitioners were not even granted an opportunity of hearing or at least to submit their written explanation. Secondly, the impugned resolution has been passed in an ex-facie arbitrary manner. A perusal of the resolution would show that there was absolutely no material before the respondent to identify the petitioners from a large crowd. It is absolutely baffling as to how, when moving the motion for suspension, the Petitioners or the 12 MLA's were identified by the Minister from a huge crowd.

4. Because, the Chairman nominated under Rule 8 of the MLS Rules, 1960 was not empowered to exercise the powers under rule 53 considering the fact that the office of Deputy Speaker of the House is functioning. As per Article 180 of the Constitution, in the absence of the Hon'ble Speaker, the Deputy alone is empowered to perform the functions for an on behalf of the same. Therefore, the Resolution dated 05.07.2021 passed by Respondent No. 1 is non-est in law and has been passed without the authority of law.
5. The period of the impugned suspension is grossly unfair and disproportionate. There is absolutely no basis for imposing a suspension of such a long period. Such action if allowed to stand, would enable the Ruling Party to wipe out the entire opposition for any period of time it deems fit.
6. The impugned resolution dated 05.07.2021 is nothing short of political vendetta and has been passed to whittle down the opposition numbers. Further, the impugned resolution has the result of leaving 12 Constituencies in the State of Maharashtra to go unrepresented for 1 year which is an anathema to parliamentary democracy.
7. Therefore in the interest of justice, it is respectfully submitted that the impugned resolution dated 05.07.2021 ought to be stayed.

8. The Petitioner has a good prima facie case in its favour. The Petitioner will suffer irreparable loss and injury in case the interim prayer of the Petitioner is not granted. Balance of convenience lies in favour of the Petitioner and against the Respondent.
9. The Petitioner submits that the interest of justice, equity and good conscience this Hon'ble Court may be pleased to allow the present application.

PRAYER

It is, therefore, most humbly and respectfully prayed that, pending the admission and final disposal of the present Writ Petition, this Hon'ble Court may be pleased to:

- (i) Grant an ad-interim ex-parte stay of the resolution dated 05.07.2021 (Annexure P-1) and the consequent suspension of the Petitioners; and
- (ii) Pass any other order or direction as this Hon'ble Court may deem fit in the facts and circumstances of the present case.

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

FILED BY:



(ABHIKALP PRATAP SINGH)
ADVOCATE FOR THE PETITIONERS

Filed on: 22.07.2021
New Delhi

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A. NO. _____ OF 2021

IN

WRIT PETITION (CIVIL) NO. _____ OF 2021

IN THE MATTER OF:

Ashish Shelar & Ors.

... Petitioners

VERSUS

The Maharashtra Legislative Assembly & Anr.

... Respondents

**APPLICATION FOR EXEMPTION FROM FILING
OFFICIAL TRANSLATION**

TO,

THE HON'BLE THE CHIEF JUSTICE OF INDIA

AND OTHER COMPANION JUSTICES OF THE

HON'BLE SUPREME COURT OF INDIA

THE HUMBLE WRIT PETITION OF
THE PETITIONERS ABOVE-NAMED

MOST RESPECTFULLY SHEWETH:

1. The captioned Writ Petition has been filed by the Petitioners under Article 32 of the Constitution of India, challenging the ex-facie arbitrary, capricious and malafide resolution dated 05.07.2021 passed by Respondent No. 1 suspending the petitioners from the Maharashtra Legislative Assembly for a period of one year and further restraining them from entering the

premises of the Maharashtra Legislative Assembly for a period of one year. The Resolution dated 05.07.2021 has been passed in flagrant violation of Article 14 of the Constitution of India inasmuch as the petitioners were not even granted an opportunity of hearing or for furnishing their written explanation before imposing such harsh penalty. Further, the resolution also suffers from the vice of arbitrariness having been passed without any application of mind whatsoever.

2. The contentions raised by the Petitioners in the above-captioned Writ Petition may be read as a part of the present Application for the sake of brevity.
3. That the Annexures P-1 to P-9 which were originally in Marathi language, have been filed after being translated in English by the local counsel to avoid delay in filing the captioned Petition. The Petitioners therefore pray to this Hon'ble Court that the filing of official translation of the Annexure P-1 to P-9 may kindly be exempted in the interest of justice.
4. The Petitioner submits that the present Application is made bona fide for the ends of justice.

PRAYER

In view of the facts and circumstances narrated hereinabove the Petitioner most respectfully pray that this Hon'ble Court may graciously be pleased to:

- a) Exempt the Petitioners from filing official translation of the Annexures P-1 to P-9; and
- b) pass such other and further orders as this Hon'ble Court may be pleased to pass in light of the facts and circumstances of the present case.

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

FILED BY



[ABHIKALP PRATAP SINGH]
ADVOCATE FOR THE PETITIONERS

FILED ON: 22.07.2021
NEW DELHI

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

I.A. NO. _____ OF 2021

IN

WRIT PETITION (CIVIL) NO. _____ OF 2021

IN THE MATTER OF:

Ashish Shelar & Ors.

... Petitioners

VERSUS

The Maharashtra Legislative Assembly & Anr.

... Respondents

**APPLICATION FOR EXEMPTION FROM FILING
NOTARIZED AFFIDAVIT AND VAKALATNAMA**

TO,

THE HON'BLE THE CHIEF JUSTICE OF INDIA

AND OTHER COMPANION JUSTICES OF THE

HON'BLE SUPREME COURT OF INDIA

THE HUMBLE WRIT PETITION OF
THE PETITIONERS ABOVE-NAMED

MOST RESPECTFULLY SHEWETH:

1. The captioned Writ Petition has been filed by the Petitioners under Article 32 of the Constitution of India, challenging the ex-facie arbitrary, capricious and malafide resolution dated 05.07.2021 passed by Respondent No. 1 suspending the petitioners from the Maharashtra Legislative Assembly for a period of one year and further restraining them from entering the

premises of the Maharashtra Legislative Assembly for a period of one year. The Resolution dated 05.07.2021 has been passed in flagrant violation of Article 14 of the Constitution of India inasmuch as the petitioners were not even granted an opportunity of hearing or for furnishing their written explanation before imposing such harsh penalty. Further, the resolution also suffers from the vice of arbitrariness having been passed without any application of mind whatsoever.

2. The contentions raised by the Petitioners in the above-captioned Writ Petition may be read as a part of the present Application for the sake of brevity.
3. The Petitioners submit that the Petitioners are not in a position to send the notarised Affidavit and Vakalatnama on an urgent basis. Hence, only the scanned copies of the Affidavits and Vakalatnama are being used in the captioned matter. The Petitioners undertake to file the original Affidavits and Vakalatnama in due course of time.
4. Further, the Petitioners seek exemption for the payment of the deficit Court Fee and Welfare fee due to the prevailing circumstances and spread of COVID1-19 pandemic and undertake to pay the same in due course of time.

5. The balance of convenience lies with the Applicants. No prejudice will be cause to any of the Respondents if the present Application for Exemption is allowed.
6. This application is made *bonafide*.

PRAYER

In the aforesaid circumstances, it is most respectfully prayed that:

- a. This Hon'ble Court be pleased to exempt the Petitioners from filing the notarized affidavit and vakalatnama; and
- b. This Hon'ble Court may pass such other or further order(s)/direction(s) as this Hon'ble Court may deem just and convenience in the circumstances of this case;

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

FILED BY:



[ABHIKALP PRATAP SINGH]
ADVOCATE FOR THE PETITIONERS

FILED ON: 22.07.2021
NEW DELHI