

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION [CIVIL] NO. **120** OF 2022

[A WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF
INDIA, 1950]

In the matter of: -

Srinivas Bhadravathi Venkata and Another ...PETITIONERS

VERSUS

Union of India and Ors. ...RESPONDENTS

WITH

I.A. NO. OF 2022

AN APPLICATION FOR EXEMPTION FROM FILING ATTESTED

AFFIDAVIT

PAPER - BOOK

(FOR INDEX KINDLY SEE INSIDE)

ADVOCATE FOR THE PETITIONERS:

MAREESH PRAVIR SAHAY

FORMAT OF INDEX

Sl. No.	Particulars of Documents	Part 1 (Contents of Paper Books)	Part 1 (Contents of Paper Books)	Remarks
(i)	(ii)	(iii)	(iv)	(v)
1.	O/R on Limitation	A	A	
2.	Listing Proforma	A1- A-2	A1- A2	
3.	Cover Page of Paper Book		A-3	
4.	Index of Record of Proceedings		A-4	
5.	Limitation Report prepared by the Registry		A-5	
6.	Defects List		A-6	
7.	Note Sheet		NS1 to	
8.	Synopsis, List of Dates and Events	B - 1A		
9.	Civil Writ Petition under Article 32, Constitution of India, 1950 with Affidavits	1- 35		
10.	Appendix Articles 14, 19, 21, 21A, 25, 26 of the Constitution of India, 1950	36 -39		
11.	Annexure- P1 A true copy newspaper Article dated 8.2.2022 in The New Indian Express	40 -41		
12.	Annexure- P2 A true copy of newspaper Article dated 9.2.2022 in The New Indian Express	42		

13.	<u>Annexure- P3</u> A true copy of newspaper Article dated 9.2.2022 in The Indian Express	43-45		
14.	<u>Annexure- P4</u> A true copy of newspaper Article dated 9.2.2022 in The Times of India	46		
15.	Application for exemption from filing attested Affidavits	47-49		
16.	F / M	50		
17.	V / A <i>along with Aadhar Card</i>	51-54		
18.	Memo of Parties	55-56		

PROFORMA FOR FIRST LISTING

SECTION _____

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

- Central Act: (Title) CONSTITUTION OF INDIA, 1950
- Section: ARTICLES 14, 19, 21, 21A, 25, 26
- Central Rule: (Title) N.A.
- Rule No(s) N.A.
- State Act: (Title) KARNATAKA EDUCATION ACT, 1983
- Section: 133(2)
- State Rule: (Title) N.A.
- Rule No(s) N.A.
- Impugned Interim Order: (Date) N.A.
- Impugned Final Order/Decree: (Date) 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: SRINIVAS BHADRAVATHI VENKATA
 (b) e-mail ID: SRINIVAS.BV@14C.IN
 (c) Mobile phone number: 9964070000

: 2 :

- 3. (a) Respondent No.1: UNION OF INDIA, HRD MINISTRY
 (b) e-mail ID: N.A.
 (c) Mobile phone number: N.A.
- 4. (a) Main category classification: 0808/0818
 (b) Sub classification: MATTERS RELATING TO HARASSMENT
- 5. Not to be listed before: N.A. OF WOMEN/ SOCIAL JUSTICE MATTERS
- 6. (a) **Similar disposed of matter with citation, if any, & case details:** N. @ SIMILAR MATTER DISPOSED
 (b) **Similar pending matter with case details:** NO SIMILAR MATTER PENDING
- 7. Criminal Matters:
 - (a) Whether accused/convict has surrendered: Yes No. N.A.
 - (b) FIR No. N.A. Date: 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 N.A.
- 11. Vehicle Number (in case of Motor Accident Claim matters): N.A.

Date: 10.2.2022

Manish

AOR for petitioner(s)/appellant(s)
 (Name) MANISH PRAVIR SAWAY
 Registration No. 2638

SYNOPSIS LIST OF DATES & EVENTS

The Petitioner No. 1 is a responsible, socially aware, and respectable citizen of India. He is Politician and a social worker and has been widely recognized, awarded, and acclaimed for his social work initiatives especially during the Covid-19 pandemic wave. He holds lot of respect in the society and the vicinity where he resides and comes from as well. He credible knowledge and understanding of the subject matter at hand including the local ground level situation as he hails from the State of Karnataka. The Petitioner is well- known for his honesty and integrity. Other members of the family of the Petitioner are also well educated and qualified persons commanding respect in the society.

The Petitioner No. 2 is a responsible, socially aware, and respectable citizen of India. She is a journalism student. She holds lot of respect in the society and the vicinity where she resides and comes from as well. She has credible knowledge and understanding of the subject matter at hand including the local ground level situation as she hails from the State of Karnataka. The Petitioner is well- known for her honesty and integrity. Other members of the family of the Petitioner are also well educated and qualified persons commanding respect in the society.

That by way of the present Writ Petition which in essence is a petition in public interest at large, the Petitioner is *inter alia* raising the vital and material issue of the right to practice religion as enshrined as a fundamental right under the Constitution of India, 1950.

That at the outset it is clarified and stated that the Petitioners are not questioning any uniform dress code. For example, Muslim girls come to school or college wearing a *Burkha* but inside the class, remove the *Burkha* and wear only the "*Hijab*" which is essentially a head scarf. Likewise, what happens in the Sikh religion, where the school uniform is worn like all others but there is a *Pagri* on the head which is an essential element of Sikh religion. So, the Petitioners in essence submit, that Muslim girls wear the same "school" or "college" "uniform" in the campus but only accompanied with a "*Hijab*" which is essentially a head scarf. The issue is not to be confused with as if Muslim girls insist on wearing a different "uniform" altogether or a "*Burkha*" at all times but only the "*Hijab*".

The Petitioners are invoking the Article 32 jurisdiction of this Hon'ble Court on two grounds, namely, there is a direct infringement an violation of fundamental rights, Articles, 21, 21A, 14, 19, 25 and 26 of the Constitution of India, 1950 and also as events are happening in multiple states and likely to spread further, it would be better and proper that this Hon'ble Court takes cognizance of the issue as different High Courts in different States may pass conflicting Orders. Moreover, being a Constitutional aspect pertaining pan-India, this Hon'ble Court being the highest Court / Constitutional Court of the land, may take cognizance of the issues at hand.

EVENTS:-

STATE OF KARNATAKA:-

Recently, events have transpired in the State of Karnataka wherein firstly, on 1.1.2022 at the State run PU College at Udupi District, Karnataka,

six Muslim girls were prohibited by the College administration on the ground that they were wearing "Hijab" or head scarves, as is commonly worn by Muslim girls and women. The said girls had been wearing the same always however without any basis, caution or notice were prohibited from entering the school / college premises.

Further, on 3.2.2022, at Bhandarkar Pre- University College, Kundapur, District Udipi, Karnataka twenty Muslim girls prohibited by the College administration on the ground that they were wearing "Hijab" or head scarves, as is commonly worn by Muslim girls and women. The said girls had been wearing the same always however without any basis, caution or notice were prohibited from entering the school / college premises.

The incidents have repeated in the aforesaid two educational institutions.

Further, on 8.2.2022 at PES College, Mandya, Karnataka, a Muslim Girl wearing a *Burkha* was heckled by a large group of men who were chanting "Jai Shri Ram".

Similar incidents, of stopping Muslim girls from entering Schools / Colleges on account of them wearing "Hijab" / head scarves have transpired in other Districts of Karnataka as well whereby either Muslim girls are either prevented altogether from entering the school or college or even if allowed to enter, made to sit in separate classrooms clearly making a class distinction among other things. The dispute, which started from Udipi and Chikmagalur in January' 2022, has now gradually spread to some other Districts as well.

U.T. OF PUDUCHERRY:-

The incident happened to a 9-year old girl who was prevented from wearing a "Hijab" in a Government High School in Ariyankuppam. The girl in

question would come to school wearing a *Burkha* but inside the class, used to remove the *Burkha* and wear only the "*Hijab*" which is essentially a head scarf.

STATE OF M.P.:-

In the State of Madhya Pradesh, the State Government has issued a press statement whereby they have stated that they are working on an Order to be issued towards a uniform dress code.

The law and order situation has escalated when Hindu students and female students started wearing saffron *Gamchas* or scarves in response., The Karnataka Government has now banned students from wearing such clothes which disturb equality, integrity and public order in schools and colleges. The State Government of Karnataka issued an Order on 5.2.2022, emphasising dress code to be followed compulsorily in all Government colleges and schools in the State by invoking Section 133 (2) of the Karnataka Education Act, 1983. The private school administrations have been permitted to take a decision regarding the dress based on their choice. The Government Order states that the Karnataka Education Act' 1983 states that "*all students should wear uniform dress so that they look alike and behave in such a way that there is no discrimination.*"

On a bare reading of the G.O. dated 5.2.2022 and the provisions of the State Act of 1983, the insistence is on "no discrimination" and *prima facie* wearing a "*Hijab*" or head scarves is not discriminatory. On the contrary, it violates Articles 21, 21-A, 14 and 25 of the Constitution of India, 1950.

Prohibitory orders under Section 144(1) Cr. P.C.,1973 have been issued the State of Karnataka in various districts including in the State capital Bengaluru.

The only "reasonable restrictions" as envisaged in Article 25 (1) are- Public Order, Morality and Health and the G.O. dated 5.2.2022 fails to meet this criterion. It is noteworthy to mention Explanation I to this Article wherein the Constitution recognizes the wearing and carrying of *Kirpan* as an integral part of Sikhism and permits the same.

The other relevant provisions of the Constitution are Articles 26-28 which need to be considered by this Hon'ble Court in context of the current issues.

- Wearing of "*Hijab*" or head scarf of girl students falls under right of religious freedom. The question / issue herein is not "right to wear clothes of one's own choice". Needless to state, that prescribed uniform has to be worn. But "*Hijab*" or merely a head scarf does not fall under the Karnataka Education Act' 1983 as invoked for the purposes of the G.O. dated 5.2.2022.
- Wearing a "*Hijab*" or head scarf is considered a religious freedom only as it is an integral part of Islam. Although there are no final Court / judicial decisions on it yet. It also relates to dignity of Muslim Women.
- The issue in question has been raised before the Hon'ble Karnataka High Court wherein a Muslim student has filed a writ petition seeking to declare wearing of "*Hijab*" as a fundamental right under Articles 14 and 25.

- This issue arose for consideration before the Hon'ble Kerala High Court in 2016 in the case of ***Aamnah Bint Basheer and Another Vs. CBSE and Union of India, W.P. (Civil) No. 6813 / 2016 decided on 26.4.2016***, wherein the dress code fixed by C.B.S.E. to sit in the exam was challenged. The High Court considered wearing the "Hijab" or head scarf as an essential religious practice but did not quash the rules of CBSE. The Court had directed the CBSE that if anyone wants to appear in the exam wearing a "Hijab" of head scarf, the person should be allowed but such students may be subjected to additional searches to check unfair means.

- But in the 2018 in the case of ***Fatima Tansin Vs. State of Kerala***, a single judge of the Kerala High Court came to a different conclusion on the issue wherein the Court said that the collective rights of an institution would be given precedence over the individual rights of the Petitioner.

- People belonging to Sikh religion have been permitted to wear "Pagris" as it is an essential element of their religion.

Relevant Extracts from the decision of the Kerala High Court in *Aamnah Bint Basheer and Another Vs. CBSE and Union of India, W.P. (Civil) No. 6813 / 2016 decided on 26.4.2016*:-

"8. However, a question may arise to what extent does the Constitution envisage protection associated with the religious practice. This is a delicate question which has been considered by various judgments of the Hon'ble Supreme Court from the year 1954 onwards."

"9. The Constitution did not define religion. Therefore, it has to be understood in a normative sense. A religion could be defined as a set of practices to regulate oneself in his internal and external conducts in obedience to his belief in supreme power. Thus, the religious practices are a set of rules or principles for attainment of belief in supreme power. The religious practices are what a religion teaches. The religions like Buddhism and Jainism, do not believe in the existence of God but follow the beliefs and doctrines for the spiritual wellbeing. {See **Ratilal Panachand Gandhi and others Vs. State of Bombay and others [AIR 1954 SC 388]**}. The Constitution guarantees protection to religious practices based on what one's conscience profess. Therefore, in all circumstances, he can retain his identity based on the religion. The State cannot interfere with the practice of religious affairs which would obliterate his religious identity. The environment in which one has to live is determined by the patterns of the idea formed by his conscience subject to the restrictions as referred under Article 25(1)."

10. In the Constituent Assembly Debate, Dr. Ambedkar referred to the "extent" of religious freedom. It was observed as follows:

"The religious conceptions in this country are so vast that they cover every aspect of life, from birth to death. There is nothing which is not religion and if the personal law is to be saved, I am sure about it that in social matters we will come to a standstill. I do not think it is possible to accept a position of that sort. There is nothing extraordinary in saying that we ought to strive hereafter to limit the definition of religion in such a manner that we shall not extend beyond beliefs and such rituals as may be connected with ceremonials which are essentially religious. It is not necessary that the sort of laws, for instance, laws relating to tenancy or laws relating to succession, should be governed by religion"..... "we are having this liberty in order to reform our social system, which is so full of inequities, so full of inequalities, discriminations, and other things, which conflict with our fundamental rights. It is, therefore, quite impossible for anybody to conceive that the personal law shall be excluded from the jurisdiction of the State. Having said that, I should also like to point out that all that the State is claiming in this matter is a power to legislate. There is no obligation upon the State to do away with personal laws. It is only giving power. Therefore, no one need be apprehensive of the fact that if the State has the power, the State will immediately proceed to execute or enforce that power in a manner that may be found to be objectionable by the Muslims by the Christians or by any other community in India."

"11. Following cue from the debate in the Constituent Assembly, various judgments of the Hon'ble Supreme Court would indicate that protection as

afforded in Articles 25 and 26 is an essential practice of religion though, such categorization is not explicit in the above constitutional provisions. The Hon'ble Supreme Court in ***The Commissioner of Hindu Religious Endowments, Madras vs. Sri. Lakshmindra Thirtha Swamiar of Sri Shirur Mutt [1954 S.C.R 1005]***, held as follows:

"It is to be noted that both in the American as well as in the Australian Constitutions the. right to freedom of religion has been declared in unrestricted terms with. out any limitation whatsoever. Limitations, therefore, have been introduced by courts of law in these countries on grounds of morality, order and social protection. An adjustment of the competing demands of the interests of Government and constitutional liberties is always a delicate and a difficult task and that is why we find difference of judicial opinion to such an extent in cases decided by the American courts where questions of religious freedom were involved. Our Constitution-makers, however, have embodied the limitations which have been evolved by judicial pronouncements in America or Australia in the Constitution itself and the language of articles 25 and 26 is sufficiently clear to enable us to determine without the aid of foreign authorities as to what matters come within the purview of religion and what do not. As we have already indicated, freedom of religion in our Constitution is not confined to religious beliefs only; it extends to religious practices as well subject to the restrictions which the Constitution itself has laid down. Under article 26 (b), therefore, a religious denomination .or organization enjoys complete autonomy in the matter of deciding as to what rites and ceremonies are essential according to the tenets of the religion they hold and no outside authority has any jurisdiction to interfere with their decision in such matters."

"Thus, Articles 25 and 26 enshrine fundamental values of neutral, liberal and secular ideals of the State to suit the pluralist religious communities in India. The constitutional philosophy therefore, alludes, religion must be a private affair and neither religious ideals would bind the constitutional polity nor would the constitutional ideals bind the religion, to stand out the religious affairs as to be governed by the personal law. The protection of essential practice thus means that liberty is beyond the interference by the State and the State has the obligation to respect the essential religious practice. Any interference with the person's right or denominations right thus requires justification of State interest to override such protection."

It was further held by the Hon'ble Supreme Court in the ***Sri. Lakshmindra Thirtha Swamiar's*** case (*supra*) as follows:

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"The contention formulated in such broad terms cannot, we think, be supported. In the first place, what constitutes the essential part of religion is primarily to be ascertained with reference to the doctrines of that religion itself. If the tenets of any religious sect of the Hindus prescribe that offerings of food should be given to the idol at particular hours of the day, that periodical ceremonies should be performed in a certain way at certain periods of the year or that there should be daily recital of sacred texts or oblations to the sacred fire, all these would be regarded as parts of religion and the mere fact that they involve expenditure of money or employment of priests and servants or the use of marketable commodities would not make them secular activities partaking of a commercial or economic character; all of them are religious practices and should be regarded as matters of religion within the meaning of article 26(b)."

"12. In **Ratilal's** case (*supra*) the Hon'ble Supreme Court observed that what constitutes the essential part of a religion has to be ascertained primarily from the religious doctrine itself. It was observed as follows:

"13. Religious practices or performances of acts in pursuance of religious belief are as much a part of religion as faith or belief in particular doctrines. Thus, if the tenets of the Jain or the Parsi religion lay down that certain rites and ceremonies are to be performed at certain times and in a particular manner, it cannot be said that these are secular activities partaking of commercial or economic character simply because they involve expenditure of money or employment of priests or the use of marketable commodities. No outside authority has any right to say that these are not essential parts of religion, and it is not open to the secular authority of the State to restrict or prohibit them in any manner they like under the guise of administering the trust estate."

"In **A.S Narayana Deeshitulu Vs State of A.P and others [1996 (9) S.C.C 548]**, it was held as follows:

"Essential or integral part of religion to be ascertained from the doctrine of that religion itself according to its tenets, historical backgrounds and change in evolved process and only integral or essential part of religion is protected. "

It was further held as follows:

"The religious freedom guaranteed by Articles 25 and 26, therefore, is intended to be a guide to a community life and ordain every religion to act according to its cultural and social demands to establish an egalitarian social order. The protection of Articles 25 and 26 of the Constitution is not limited to matters of doctrine. They also extend

to acts done in furtherance of religion and, therefore, they contain a guarantee for rituals and observances, ceremonies and modes of worships which are integral parts of the religion. Articles 25 and 26, therefore, strike a balance between the rigidity of right to religious belief and faith and their intrinsic restrictions in matters of religion, religious beliefs and religious practices and guaranteed freedom of conscience to commune with his Cosmos, Creator and realize his spiritual self."

"13. In dealing with the question of freedom of religious practices, the Court must dwell on to find such practices are essential to maintain the identity of a person to profess his faith in the religion he practices and if not allowed, whether it would result in the wrath of the injunctions of the religious doctrine he professes. One of the salient features of the religious tenets is the moral obligations that one has to carry in formulating his conduct, in obedience to the command of superior power in like manner his conduct has to be conducive to become obedient to the legal obligation or legal duty under the temporal law. This moral obligation cannot be allowed to be interpolated by outside ethos. If the religious tenets do not allow a woman to become a priest, the State cannot import secular ethos of gender equality to allow a woman to be appointed as a priest. If it is allowed, the constitutional protection will become void and hollow. The Hon'ble Supreme Court in **Commissioner of Police and others v. Acharya Jagadishwarananda Avadhuta and another [AIR 2004 SC 2984]** held as follows:

"What is meant by an essential part or practices of a religion' is now the matter for elucidation. Essential part of a religion means the core beliefs upon which a religion is founded. Essential practice means those practices that are fundamental to follow a religious belief. It is upon the cornerstone of essential parts or practices the superstructure of religion is built, without which, a religion will be no religion. Test to determine whether a part or practices is essential to the religion is - to find out whether the nature of religion will be changed without that part or practice. If the taking away of that part or practice could result in a fundamental change in the character of that religion or in its behalf, then such part could be treated as an essential or integral part. There cannot be additions or subtractions to such part. Because it is the very essence of what religion and alterations will change its fundamental character. It is such permanent essential part is what is protected by the Constitution. No body can say that essential part or practice of one's religion has changed from a particular date or by an event. Such alterable parts or practices are definitely not the 'core' of religion where the belief is based and religion is founded upon. It could only be treated as mere embellishments to the non-essential part or practices."

Thus the religious practice cannot be tested on the secular thoughts or any other consideration outside the religious authority. The personal law is not law within the meaning of expression "law" under article 13(1) of the Constitution. Thus, it is immune from the challenge based on constitutional parameters. {See the **State of Bombay v Narasu Appa Mai [A.I.R (39) 1952 Bombay 84]**}.

14. The enabling power of the State is limited to the areas referred under Article 25(2) (a) & (b). However, nothing prevents the States or the Courts examining the true nature of the essential religious practice. It is open for the State to regulate or make laws consistent with the essential practice of a religion. However, while making a regulation or a law, the true import of the essential practice shall not be supplanted.

"15. The Article 25(1) couches a negative liberty ensuring "free from interference or obstacle" in practicing the essential part of a religion, except in situations as referred in the said Article. According to Thomas Hobbes "A freeman is he, that in those things, which by his strength and wit he is able to do, is not hindered to do what he has will to do" (Leviathan Chapter 21 of the liberty of subjects) Isaiah Berlin in his 1958 lecture "Two Concepts of Liberty" refers to negative liberty as follows: "liberty in the negative sense involves an answer to the question: 'What is the area within which the subject—a person or group of persons—is or should be left to do or be what he is able to do or be, without interference by other persons.'"

"16. The upshot of the discussions as above is as follows:

i. The fundamental right of freedom to practice religion is protected to the extent to practice essential part of the religion, subject to the restrictions enumerated under Articles 25(1) and 26.

ii. There is no fundamental right conferred on any person about practice of non-essential part of a religion. Therefore, the State is competent to curb or regulate or interfere with the non-essential part of the religious practices on any reasonable ground.

iii. The State is competent to make laws in areas referred under Article 25(2)(a) & (b) and also to make laws consistent with the essential part of the religious practice.

17. Coming back to the core issue in this writ petition about the dress code; it is to be noted Islam embrace and encompass guidance to the human in all walks of life. The Shariah is the Islamic law. The Shariah consists of two things.

- i. The laws revealed through Holy Quran.
- ii. The laws that are taken from the lifestyle and teachings of the Prophet Mohammed. This part is called *Hadiths*.

The Holy Quran consist of a broad and general prepositions. It is often through *Hadiths*, Quranic prepositions are interpreted or explained. Therefore, validity of expected conduct of the believer rests on the credibility of reporting of *Hadiths* as well. The whole idea of Quranic injunctions and *Hadiths* is to reduce the rights and obligations to formulate certain standards of behaviour of individuals in his conduct in obedience to the commands of the God. This presuppose to bind his own behaviour as well as of the community.

“18. As has been note above the *Hadiths* have significant role in determining the Shariah law. In Chapter 7 ‘Surah’ known as ‘Heights’, the Quran reminds believer the requirements of following the *Hadiths*. In verse 157, it is stated as follows:

“Those who follow the messenger, the prophet who can neither read nor write, whom they will find described in the Torah and the Gospel (which are) with them . He will enjoin on them that which is right and forbid them which is wrong . He will make lawful for them all good things and prohibit for them only the foul ; and he will relieve them of their burden and the fetters that they used to wear . Then those who believe in him, and honour him , and help him and follow the light which is sent down with him, they are successful.”

In another Chapter 59 known as ‘Exile’, in verse 7, the Quran commands the believer as follows:

“ Whatever the messenger gives you, take it. And whatsoever he forbidden abstain from it.”

However, there is a possibility of reporting *Hadiths* in different way about life, sayings and teaching of prophet Mohamed, the Messenger. This is one of the reason, the different schools of thoughts have come into existence among the Muslims. The different propositions that may also result in conflict of views and opinions. As far as the constitutional Courts are concerned, when called upon to decide the rights premised on the freedom guaranteed under Article 25(1) or 26 is to accommodate such different propositions to honour such freedom. The constitutional Courts are looking the issue from the angle of freedom guaranteed and not to take-up on the task of validity of such propositions, as the priests or

proponents of such proposition would do. The Constitutional Courts are expected to safeguard all such proposition, stems from belief or faith, irrespective of the challenge being made for acceptance of such propositions within or outside the religion. The authority to decide what is valid or not valid should be left to the discretion of the persons referred under Article 25(1) or to the denominations as referred under Article 26. The right of denominations underscores here the right to profess and practice in an organized manner by a sect within a large group of religion. The Court will always have to protect the essence of such liberty. However, nothing would impede the State being guardian of all citizens to bring any legislation consistent with the essential practice of religion.

“19. The petitioners’ concern is that the dress code as now prescribed would not allow the candidates to wear the headscarf and full sleeve dress. It is the case of the petitioners that Shariah mandates women to wear the headscarf and full sleeve dress and therefore, any prescription contrary is repugnant to protection of the religious freedom as provided under Article 25(1).”

20. Therefore, this Court has to examine the nature of the dress code prescribed for women in Islam and; such prescription is an essential part of the religion or not; and if it forms part of essential religious practice, can it be regulated in the light of Article 25(1).

21. In Chapter 24 known as "The Light" in verse 31 in Holy Quran, the command is as follows:

“31. And tell the believing women to lower their gaze and be modest, and to display of their adornment only that which is apparent, and to draw their veils over their bosoms, and not to reveal their adornment save to their own husbands or fathers or husbands’ fathers, or their sons or their husbands’ sons, or their brothers or their brothers’ sons or sisters’ sons, or their women, or their slaves, or male attendants who lack vigour, or children who know naught of women’s nakedness. And let them not stamp their feet so as to reveal what they hide of their adornment. And turn unto Allah together, O believers, so that ye may succeed.”

[Ref: Ibid]

“22. In the original text in Arabic, the veil is referred as a 'Khumur'.

In 'the Islamic digest of *Aqeedah* and *Fiqh*' by Mahmoud Rida Murad 'Khumur' is mentioned as follows:

"Khumur, or head cover, is the cloth which covers all of the hair on the head, while the work, 'juyooob' (pl. of jaib) means not only the bosom, as commonly thought, but it includes the neck too."

23. In the Chapter 33 known as 'The Clans' in verse 59 of the Holy Quran, the command is as follows:

"O Prophet, tell your wives and your daughters and the women of the believers to lower over them a portion of their jilbabs. That is more suitable that they will be known and not be harmed. And even Allah Forgiving and Merciful."
(Ref: Ibid) "

"24. The reference of *jilbab* in the above chapter would indicate that the Islamic dress code for women not only consists of a scarf that covers the head, the neck and the bosom but also includes the overall dress that should be long and loose. The *jilbab* in Arabic Dictionary like lisanu- Al- Arab referred as the loose outer garment.

25. In one of the *Hadidhs* (words of Prophet Mohammed), explaining the Quranic verses to his sister- in-law 'Asma' is as follows:

"O Asma! It is not correct for a woman to show her parts other than her hands and face to strangers after she begins to have menstruation."

[Reported by Abudawud ref: hadith no 4092 kitab al libas (book of clothing Sunan Abu Dawud)]

26. In another *Hadidh* reported by Thirmidi is as follows:

"Abdullah, son of Umar bin al-Khattab, with whom Allah is pleased, reported that the Messenger of Allah, said:

On the Day of Resurrection, Allah will not look at the man who trails his garment along boastfully." Thereupon, Umm Salamah asked, 'What should women do with their garments?' The Prophet said: 'They should lower their garments a hand span,' Umm Salamah further said, 'Women's feet would still be uncovered.' The Messenger of Allah (S), replied: 'Let them lower them a forearm's length, but not longer.'

[Ref: The Islamic Digest of Aqeedah and Fiqh by Mahmoud Rida Murad]

"27. The prescription of the dress code as above is essential or not has to be understood with reference to the Shariah injunctions. There are five kinds of rules

recognized in Islamic law to classify the nature of the law for its operation which are as follows:

- i. *Farz*: Strictly obligatory. Five times prayer, Compulsory payment (*zakat*), Fasting, etc.
- ii. *Haram*: Those are strictly forbidden. Consumption of liquor, eating of *pork* etc.
- iii. *Mandub*: Things which are advice to do. These are things which one fails to perform would not cause any harm to him like additional prayers apart from the five times obligatory prayers.
- iv. *Makruh*: Which means advice to refrain from. These sins are a lesser category which is short of forbidden, such as wasting food, water, etc.
- v. *Jaiz*: This is about the things, the religion is indifferent. These things are lawful and would not reap any rewards.

(Ref: Outlines of Mohammadan Law by Asaf A.A Fyzee)"

"28. In the event of infringement of the dress code, punishment is referred in the *Hadiths* as follows:

"Fudhalah bin Ubaid reported that the Messenger of Allah (s) said.

*Three people about whose evil fate you should not feel sorry: a man who disassociates himself from the Muslim Ummah, disobeys his Imam (the ruler of the Muslim Ummah), and dies in that state; a slave who runs away from his master and dies before returning to him; a woman whose husband goes away after having provided her with provisions but she displays her beauty, in *tabar-ruj* during his absence. So do not be concerned about them.*

The jilbab must conceal the underclothes. Such requirement applies to the garment a Muslimah should wear for Salah as well. He said.

There will be, in the latter days of my Ummah, women who will be dressed and yet undressed. (They will be wearing) On their heads (things) resembling camels' humps. Curse them. They are accursed."

"29. Thus, the analysis of the Quranic injunctions and the *Hadiths* would show that it is a *farz* to cover the head and wear the long sleeved dress except face part and

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exposing the body otherwise is forbidden (*haram*). When *farz* is violated by any action opposite to *farz* that action becomes forbidden (*haram*). However, there is a possibility of having different views or opinions for the believers of the Islam based on *ijithihad* (independent reasoning). This Court is not discarding such views. The possibility of having different propositions is not a ground to deny the freedom, if such propositions have some foundation in the claim. As has been adverted above, the claim of the petitioners is well founded even though, a different view is possible. This Court is only expected to safeguard such freedom based on the Constitution in preference to giving a religious verdict. “

“30. The discussions as above would show that covering the head and wearing a long sleeve dress by women have been treated as an essential part of the Islamic religion. It follows a fortiori, Article 25(1) protects such prescription of the dress code. Then the only question remains is the essential practice as above would offend the public order, morality, and health or is it necessary to regulate such essential practice to give effect to other provisions of Part III of the Constitution. In **Bijoe Emmanuel and others vs. State of Kerala and Others [(1986) 3 SCC 615]**, the Hon'ble Supreme Court held as follows:

“Therefore, whenever the Fundamental Right to freedom of conscience and to profess, practise and propogate religion is invoked, the act complained of as offending the Fundamental Right must invoke, the act complained of as offending the Fundamental Right must be examined to discover whether such act is to protect public order, morality and health, whether it is to give effect to the other provisions of Part III of the Constitution or whether it is authorized by a law made to regulate or restrict any economic, financial, political or secular activity which may be associated with religious practice or to provide for social welfare and reform. It is the duty and function of the court so to do.”

“31. The rationale for prescribing dress code by the Board is to avoid malpractices in the examination. The prescription as above is not by invoking an interest of public order or morals of the society. The public order is one which would affect community or public at large. The morality is pertaining to conscience or moral sense of the prescribed standards in the society. The health denotes well-being of a person. The restriction by the Board can be only on any grounds referred as above. In the absence of any conditions referable under Article 25(1), the essential practice cannot be regulated or restrained. No doubt, a restriction can be imposed under Article 19(2) of the Constitution in the interest of the security of the State

as contemplated under Article 25(1) which also states the freedom would be subject to the provisions of Part III of the Constitution.”

“32. The right of women to have the choice of dress based on religious injunctions is a fundamental right protected under Article 25(1), when such prescription of dress is an essential part of the religion. As has been noted above, that right can be negated only in any of the circumstances referred under Article 25(1). The attempt of the Board to ensure transparency and credibility of the examinations also cannot be ignored by this Court. However, the approach of the Court is always to harmoniously accommodate the competing interest without there being any conflict or repugnancy. The interest of the Board can be safeguarded by allowing the invigilator to frisk such candidates including by removing scarf. However, safeguard has to be ensured that this must be done honouring the religious sentiments of the candidates. Therefore, women invigilators can be permitted to frisk such candidates. It is to be noted that this Court, for the last year examination, in a similar challenge in W.P.(C).No.21696/2015 ordered as follows:

“... there shall be a direction that at the two centres indicated in the writ petitions, the Invigilator along with a woman Invigilator or another authorized officer shall be present half an hour before the examination commences. The petitioners who intend to wear a dress according to their religious custom, but contrary to the dress code, shall present themselves before the Invigilator half an hour before the examination and on any suspicion expressed by the Invigilator, shall also subject themselves to any acceptable mode of personal examination as decided by the Invigilator, shall also subject themselves to any acceptable mode of personal examination as decided by the Invigilator, but however carried on only by an authorized person of the same sex. If the Invigilator requires the head scarf or the full sleeve garments to be removed and examined, then the petitioners shall also subject themselves to that, by the authorized person. It is also desirable that the C.B.S.E issue general instructions to its Invigilators to ensure that religious sentiments be not hurt and at the same time discipline be not compromised.”

“33. The learned counsel for the petitioner fervently urged before this Court that all similarly situated students must be given the same relief. He relied on judgment of the Hon'ble Andhra Pradesh High Court in ***M. Peeran Saheb and others vs. Special Officer cum Collector, Punganur Municipality and other, [AIR 1988 Andhra Pradesh 377]***, wherein it was held as follows:

“The learned Advocate General further contended that in case of violation of fundamental right, the person whose right is violated should alone come and seek

relief and that general relief cannot be granted by the Court. I am afraid I cannot accede to the contention of the learned Advocate General in view of the judgment of the Supreme Court in Judges transfer case. The petitioners claim the relief on the ground of violation of Article 25. Having regard to the nature of the relief granted, it is not necessary that every one who objects to be photograph should approach this Court. Those of the citizens who have declined to be photographed but did not approach this court will also be entitled to the benefit of the order provided they fall within the class held entitled to the relief."

"34. The learned Senior Counsel appearing for the Board opposed this prayer. He would submit that no such omnibus relief can be granted to unidentifiable applicants and there would be a practical difficulty for the Board in implementing such directions."

"35. This Court already found that the right to practice the essential part of the religion as guaranteed under Article 25(1) is a negative liberty which means the person is insulated from interference by the authority or the State except in situations referred therein. Therefore, the Board cannot restrict the claim of any similarly situated persons. It is only when a claim is based on a positive liberty, the relief being granted by the Court should be restricted. When this Court declares the law as above, all similarly situated persons would be entitled to such benefits without approaching the Court. In this writ petition, involving a question of negative liberty, the substantial relief is granted as a declaration. Therefore, such declaration cannot be confined to the first petitioner alone. All similarly situated persons forming into such class would be entitled for the relief granted by this Court. In fact, such declaration is not a declaration of the first petitioner's right alone but a declaration of the law itself. "

"36. However, the practical difficulty in implementing the direction of this Court has to be considered. This Court taking note of the practical difficulty of the Board for the conduct of the examination during the last year, in W.P.(C).No.21696/2015 had provided sufficient safeguards. This Court is of the view that the same can be followed for this year as well, and the Board can take necessary steps for the next year onwards, while inviting applications itself, to protect such rights. **It is to be noted practical difficulty cannot be an excuse to honor the fundamental rights.** Therefore, this Court is of the view that for this year the Board shall permit all candidates, who based on the religious practice want to wear head scarf and full sleeved length dress, to appear for the exams."

"37. This Court need not interfere with the dress code prescription as referred in the Board's prospectus as others are bound by such prescription except to hold that the dress code as above shall not be enforced against the candidates, who by virtue of Article 25(1) are protected from wearing such dress as prescribed in the injunctions of their faith. The writ petition is allowed and disposed of by granting relief as ordered in W.P. (C).No. 21696/2015 to all who fall within the same class as protected under Article 25(1). It is made clear that all such candidates will have to report at the Centre at least half an hour before the schedule time."

As such, this issue needs consideration by this Hon'ble Court and law may be settled on this issue and appropriate guidelines may be issued for the States to incorporate. The dispute related to whether the "*Hijab*" of head scarf is an integral part of Islam or not can end only after consideration / decision of this Hon'ble Court and on the issue of a uniform dress code for educational institutions. Also, any individual's fundamental rights and constitutional rights on this aspect need to be considered.

Purdah, Ghonghat etc. are a custom, tradition so should be "*Hijab*". Religious freedoms and practices must be protected hence religious freedom would be roped in even on the issue of untouchability. Everyone has the right to wear clothes / head gear of their choice and practice their own religion, its customs and traditions. If a small girl child is seen wearing "*Hijab*", it can be 'not out of her own choice' but for older and adult girls and women wherein it is their choice, the right must be protected. Belief in religion is one thing but religious fanaticism is another facet altogether. The consequences of religious bigotry will not be right, no matter with what religion this bigotry is associated with. At least the schools, colleges and educational institutions should not be made the battleground for the fight against religious fanaticism.

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The aforesaid events have also resulted in poor law and order situations at many places.

The events are a direct infringement of the fundamental right as enshrined under Article 25 of the Constitution of India, 1950 which provides for "Freedom of conscience and free profession, practice and propagation of religion". The only "reasonable restrictions" as envisaged in Article 25 (1) are- Public Order, Morality and Health.

Preventing them from attending college and in a sense debarring them from education further violates their fundamental right as enshrined under Articles 21 and 21 A of the Constitution, which is "Protection of Life and Personal Liberty" and which includes right to education, Right to education and also Article 14 of the Constitution as having differentiated them as a different class.

The international recognition of "Right to education" flows from Article 26 of the Universal Declaration of Human Rights, and considered basic need of every human being. In 1960, UNESCO in its right to education convention strongly stated against discrimination in education.

The Right to education Act' 2010 was passed by the Parliament of India on 4.8.2009. India has become one of the 135 countries to now implement the Right to Education as a fundamental right now guaranteed in our Constitution under Article 21 A. This act came into force on 1st April, 2010.

Right to Education judicial background: -

The Right to education became a fundamental right and is now included in part III of the Indian constitution under Article 21-A. But as back

as in the case of ***Mohini Jain Vs. State of Karnataka, AIR 1992 SC 1858; 1992 (3) SCR 658***, it was recognized as a fundamental right wherein it was held that "Right to education is the essence of the right to life and directly flow and interlinked with it, and life living with dignity can only be assured when there is a significant role of education".

Later, the validity of this judgment was re-examined by five judges bench in ***J.P. Unnikrishnan Vs. State of Andhra Pradesh, AIR 1993 SC 2178, 1993 (1) SCR 594*** wherein it was held that-

"Right to education means citizen has the right to call up the state to provide the facilities of education to them in according to the financial capacity".

Also, the cases of ***Maharashtra State Board of Secondary and Higher Education Vs. K.S. Gandhi 1991 (1) SCALE 187*** and ***Bandhua Mukti Morcha etc. Vs. U.O.I., (1997) 10 SCC 549*** are referred to in the aforesaid regard.

The only "reasonable restrictions" as envisaged in Article 25 (1) are- Public Order, Morality and Health and apart from these restrictions, nothing can be used to impose any restrictions on religion, religious practices, customs, and traditions.

In a decision passed by the United States Supreme Court in an 8-1 verdict, in the case of ***Samantha Elauf***, the Hon'ble Court permitted a Muslim girl to wear a headscarf at work. Earlier she was not hired because she wore a head scarf and held that discrimination based on religious cannot be permitted.

The vital, material and constitutional issues raised herein needs consideration by this Hon'ble Court, which is the highest Constitutional Court of the land and law may be settled on this issue and appropriate guidelines may be issued for the States to incorporate. The dispute related to whether the "*Hijab*" of head scarf is an integral part of Islam or not can end only after consideration / decision of this Hon'ble Court and on the issue of a uniform dress code for educational institutions. Also, any individual's fundamental rights and constitutional rights on this aspect need to be considered an upheld which include wearing a "*Hijab*" or a head scarf.

The Muslim girls and women must be given right to choose and right to wear a "*Hijab*" if they choose so, as their fundamental right.

Hence the present Writ Petition

LIST OF DATES AND EVENTS

- 31.12.2021 An incident of about six students from Government PU College for girls, Ududpi, demanding they wear *Hijab* inside classrooms comes to light.
- 1.1.2022 A meeting organised at the said College decides not to allow to wear head scarf inside classrooms.
- 6.1.2022 Pompei College Aikala decides to allow students to wear only prescribed uniform.
- 13.1.2022 Eight students from Government PU College for girls, Udupi decide to attend classes only if they are allowed to wear *Hijab*. Students claimed the undertaking they signed at the time of admission spoke only about wearing uniform and identity cards.
- 19.1.2022 Another attempt is made to solve the head scarf row at the Udupi college. It is decided that students can wear *Hijab* in classrooms; however, once the teacher arrives and classes begin, they will have to remove it. In case they do not agree, they do not agree, they will have to wait for Government Orders.

- 25.1.2022 Karnataka Government decides to set up expert committee to decide on uniform and dress code. It directs colleges in Udupi to maintain *status quo* till panel takes a final decision. On January 28, even as the college betterment committee at the Government PU college for girls starts discussions with muslim leaders and parents to end the *Hijab* crisis other incidents disrupt the same.
- 31.1.2022 Five Muslim girls from Government PU college for girls Udupi approach the Karnataka High Court seeking a declaration from it that they have a fundamental right to practice essential religious practices, including wearing of *Hijab* as per Islamic faith, on college premises.
- 1.2.2022 Six students one again were denied entry in classrooms.

- 2.2.2022 In Kundarpur, 28 girls wore *Hijab* and a large group of boys . men wearing saffron shawls denied the girls entry in college.
- 3.2.2022 In Kundapur junior college, 28 muslim students are denied entry for wearing a *Hijab* followed at Bhandarkar's Arts and Science College and later to Government PU College in Byndoor, among other institutions as well.
- 5.2.2022 That the State of Karnataka issued a Government Order under Section 133(2) of the Karnataka Education Act'1983 whereby a dress code has been emphasised in Government institutions however private institutions have been permitted to take their own independent decisions.
- 8.2.2022 In Mahatama Gandhi Memorial College in Udupi, Hindu students wearing saffron turbons and shawls countered students supporting wearing of the *Hijab*.
- 8.2.2022 A lone Muslim women wearing a *Burkha / Hijab* was badly heckled in PSE college of Karnataka by a large

group of men chanting the religious slogan "Jai Shri Ram".

Constantly, women and girls are being denied entry in schools, colleges and educational institutions for them wearing a *Hijab* affecting a slew of fundamental rights including Articles 14, 21, 21A, 25 and 26 of the C.O.I., 1950.

These incidents have now been reported in other States / U.T.s such as Puducherry and Madhya Pradesh as well.

Hence the present Writ Petition

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION [CIVIL] NO.

OF 2022

In the matter of:-

1. Mr. Srinivas Bhadravathi Venkata

S/o Shri Venkatesh G.V.

R/o 726 / A, M.C. Modi Street, Rajajinagar

Bangalore North, Bengaluru, Rajajinagar

Bengaluru- 560010 (Karnataka)

Aged about 41 years

PAN NO. - BIGPS8899L

UID NO. - 893050072607

MOBILE NO. - +91- 9964070000

E-MAIL:- shrinivas.bv@iyc.in

2. Ms. Aksa Hazra, D/o Md. Iqbal Bava

R/o 14- 36 G, Kaikamba, Near M.K. Tower

B Mooda, VTC: Bantwal, P.O.: Jodumarga

Sub. District: Bantwal

District: Dakshina Kannada- 574219 (Karnataka)

Aged about 19 years

PAN NO. - NIL

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E-MAIL- aqsaazra@gmail.com

....PETITIONERS

VERSUS

1. UNION OF INDIA

THROUGH SECRETARY

Ministry of HRD

Shastri Bhawan

New Delhi-110 011

2. UNION OF INDIA

THROUGH SECRETARY

Ministry of Law and Justice

Shastri Bhavan

New Delhi-110 011

3. State of Karnataka

THROUGH CHIEF SECRETARY

Government of Karnataka, Room No.320

3rd Floor, Vidhana Soudha

Bengaluru-560 001 (Karnataka)

4. U.T. of Puducherry

Through Chief Secretary

Goubert Avenue

Beach Road

White Town

Puducherry- 605001

5. State of Madhya Pradesh

THROUGH CHIEF SECRETARY

M.P. Mantralaya

Ballabh Bhawan

Bhopal- 462 004

Madhya Pradesh

6. ALL India Personal Muslim Law Board

Through Convenor

Mr. Md. Wali Rahmani Sb.

Sajjada Nashin, Khanqah-e-Rahmani

Munger- 811 201 (Bihar)

7. National Commission of Women

Through its Chairperson

Plot No. 21, FC 33, Institutional Area

Jasola, Delhi- 110 025

8. National Human Rights Commission

Manav Adhikar Bhawan

Block-C, G.P.O. Complex

I.N.A.

New Delhi- 110 023

....CONTESTING RESPONDENTS

A Writ Petition under Article 32 of the Constitution of India, 1950 for appropriate Orders and Directions the Respondents and public at large seeking appropriate Order(s) and Direction(s) to be issued to the Respondents and to the public at large, recognizing the right of Muslim girls and women to wear "Hijab" or a "head scarf" whether in schools, colleges, educational institutions and even at places of work, as a fundamental right if they choose to wear so and for allied and consequential Orders and Directions.

To

The Hon'ble Chief Justice of India
and his companion justices of the
Hon'ble Supreme Court of India

The humble petition of the
above named Petitioner/s

MOST RESPECTFULLY SHEWETH:

1. That vide the present petition which is in essence a petition in public interest at large is being filed seeking appropriate Order(s) and Direction(s) to be issued to the Respondents and to the public at large, recognizing the right of Muslim girls and women to wear "*Hijab*" or a "head scarf" whether in schools, colleges, educational institutions and even at places of work, as a fundamental right if they choose to wear so and for allied and consequential Orders and Directions.

1A. That the Petitioners state that the Petitioners have not approached any of the Respondent(s) herein for any of the relief(s) as sought for vide the instant writ petition.

1B. That the Petitioner No. 1 is a Politician and social worker, is the National President of The Indian Youth Congress and Petitioner No.2 is a Muslim woman and a journalism student.

1C. That the Petitioner No. 1 is an Income-Tax Assessee/s and his PAN Nos. is BIGPS8899L; and his UID / Aadhaar Number is 893050072607; the Petitioner No. 2 does not have a PAN Card however her UID / Aadhaar No. is 951624691653. A copy of the PAN Card and UID Card of the Petitioners is enclosed along with the *Vakalatnama*.

1D. That the Petitioners does not have any personal, vested interests nor any personal gains in the instant matter and the petition is being filed purely in public interest.

1E. That there is no nexus or link of any civil, criminal, revenue litigation of the Petitioners, if any, with the issues, facts and relief(s) involved in the present case.

2. QUESTIONS OF LAW: -

- A. Whether the wearing of "*Hijab*" or a head scarf by Muslim girls and women out of their own choice falls under "fundamental rights" as envisaged under PART III of the Constitution of India, 1950 r/w allied provisions of the Constitution?
- B. Whether Muslim girls and women can be prohibited from schools, colleges, educational institutions, and places of work on account of them wearing a "*Hijab*" or a head scarf and whether such action violates Articles 21, 21A, 14, 19 and 25-26 of the Constitution of India, 1950?
- C. Whether the G.O. dated 5.2.2022 issued by the State of Karnataka under the Karnataka Education Act' 1983 as is lawful and constitutional?

3. BRIEF FACTS OF THE CASE: -

- A. The Petitioners are seeking appropriate Order(s) and Direction(s) to be issued to the Respondents and to the public at large, recognizing the right of Muslim girls and women to wear "*Hijab*" or a "head scarf" whether in schools, colleges, educational institutions and even at places of work, as a fundamental right if they choose to wear so and for allied and consequential Orders and Directions.
- B. The Petitioner No. 1 is a responsible, socially aware, and respectable citizen of India. He is Politician and a social worker and has been widely recognized, awarded, and acclaimed for his social work initiatives especially during the Covid-19 pandemic wave. He holds lot of respect in the society and the vicinity where he resides and comes from as well. He credible knowledge and understanding

of the subject matter at hand including the local ground level situation as he hails from the State of Karnataka. The Petitioner is well- known for his honesty and integrity. Other members of the family of the Petitioner are also well educated and qualified persons commanding respect in the society.

- C. The Petitioner No. 2 is a responsible, socially aware, and respectable citizen of India. She is a journalism student. She holds lot of respect in the society and the vicinity where she resides and comes from as well. She has credible knowledge and understanding of the subject matter at hand including the local ground level situation as she hails from the State of Karnataka. The Petitioner is well- known for her honesty and integrity. Other members of the family of the Petitioner are also well educated and qualified persons commanding respect in the society.

- D. That the Petitioner being are having knowledge and understanding of the subject matter at hand.
- E. That all the Respondents are the authorities as defined under the Article 12 of the Constitution of India, 1950 and hence are amenable to the writ jurisdiction of this Hon'ble Court.
- F. That at the outset it is clarified and stated that the Petitioners are not questioning any uniform dress code. For example, Muslim girls come to school or college wearing a *Burkha* but inside the class, remove the *Burkha* and wear only the "*Hijab*" which is essentially a head scarf. Likewise, what happens in the Sikh religion, where the school uniform is worn like all others but there is a *Pagri* on the head which is an essential element of Sikh religion. So, the Petitioners in essence submit, that Muslim girls wear the same "school" or "college" "uniform" in the campus but only accompanied with a "*Hijab*" which is

essentially a head scarf. The issue is not to be confused with as if Muslim girls insist on wearing a different “uniform” altogether or a “Burkha” at all times but only the “*Hijab*”.

- G. The Petitioners are invoking the Article 32 jurisdiction of this Hon’ble Court on two grounds, namely, there is a direct infringement and violation of fundamental rights, Articles, 21, 21A, 14, 19, 25 and 26 of the Constitution of India, 1950 and also as events are happening in multiple states and likely to spread further, it would be better and proper that this Hon’ble Court takes cognizance of the issue as different High Courts in different States may pass conflicting Orders. Moreover, being a Constitutional aspect pertaining pan-India, this Hon’ble Court being the highest Court / Constitutional Court of the land, may take cognizance of the issues at hand.

H. That the cause of action for the instant writ petition to be filed as under: -

i. **STATE OF KARNATAKA:-**

Recently, events have transpired in the State of Karnataka wherein firstly, on 1.1.2022 at the State run PU College at Udupi District, Karnataka, six Muslim girls were prohibited by the College administration on the ground that they were wearing "Hijab" or head scarves, as is commonly worn by Muslim girls and women. The said girls had been wearing the same always however without any basis, caution or notice were prohibited from entering the school / college premises.

Further, on 3.2.2022, at Bhandarkar Pre- University College, Kundapur, District Udupi, Karnataka twenty Muslim girls prohibited by the College administration on the ground that they were

wearing "*Hijab*" or head scarves, as is commonly worn by Muslim girls and women. The said girls had been wearing the same always however without any basis, caution or notice were prohibited from entering the school / college premises.

The incidents have repeated in the aforesaid two educational institutions.

Further, on 8.2.2022 at PES College, Mandya, Karnataka, a Muslim Girl wearing a *Burkha* was heckled by a large group of men who were chanting "*Jai Shri Ram*".

Similar incidents, of stopping Muslim girls from entering Schools / Colleges on account of them wearing "*Hijab*" / head scarves have transpired in other Districts of Karnataka as well whereby either Muslim girls are either prevented altogether from

entering the school or college or even if allowed to enter, made to sit in separate classrooms clearly making a class distinction among other things. The dispute, which started from Udupi and Chikmagalur in January' 2022, has now gradually spread to some other Districts as well.

ii. **U.T. OF PUDUCHERRY:-**

The incident happened to a 9-year old girl who was prevented from wearing a "Hijab" in a Government High School in Ariyankuppam. The girl in question would come to school wearing a *Burkha* but inside the class, used to remove the *Burkha* and wear only the "Hijab" which is essentially a head scarf.

iii. **STATE OF M.P.:-**

In the State of Madhya Pradesh, the State Government has issued a press statement whereby they have stated that they are working on an Order to be issued towards a uniform dress code.

A true copy newspaper Article dated 8.2.2022 in The New Indian Express is being annexed hereto and marked as Annexure- P1 [Pages 40 to 41].

A true copy of newspaper Article dated 9.2.2022 in The New Indian Express is being annexed hereto and marked as Annexure- P2 [Pages 42 to 42].

A true copy of newspaper Article dated 9.2.2022 in The Indian Express is being annexed hereto and marked as Annexure- P3 [Pages 43 to 45].

A true copy of newspaper Article dated 9.2.2022 in The Times of India is being annexed hereto and marked as Annexure- P4 [Pages 46 to 46].

- I. That the present Writ Petition is being filed purely in public interest and the facts constituting the cause(s) of action and the nature of injury caused / likely to be caused to the public at large is being detailed herein after.
 - J. That the concerned Central and / or State Authorities or any other Authorities, Departments, Bodies etc. were not moved by the Petitioners for any relief(s).
 - K. The facts illustrated herein before show a very grave situation where basic, fundamental, and constitutional rights of many people has been put at serious prejudice and jeopardy.
4. That the present writ petition is being filed on the following among other GROUNDS which may be read without prejudice to one another. The Petitioners reserve their right to add / alter / substitute / modify / amend the GROUNDS if and when needed in the interest of justice.

GROUNDS

- A. Because the Petitioners are responsible, socially aware, and respectable citizens of India and social activists. The Petitioners holds lot of respect in the society and the vicinity where they reside as well. They have credible knowledge and understanding of the subject matter at hand. Because the Petitioners have performed their duty as is expected of a responsible, socially aware and a respectable citizen *quae* the issue(s) at hand from researching upon the same and bringing the same to the notice of this Hon'ble Court.
- B. Because at the outset it is clarified and stated that the Petitioners are not questioning any uniform dress code. For example, Muslim girls come to school or college wearing a *Burkha* but inside the class, remove the *Burkha* and wear only the "*Hijab*" which is essentially a head scarf. Likewise, what happens in the Sikh religion, where the school uniform is worn

like all others but there is a *Pagri* on the head which is an essential element of Sikh religion. So, the Petitioners in essence submit, that Muslim girls wear the same “school” or “college” “uniform” in the campus but only accompanied with a “*Hijab*” which is essentially a head scarf. The issue is not to be confused with as if Muslim girls insist on wearing a different “uniform” altogether or a “*Burkha*” at all times but only the “*Hijab*”.

- C. Because the Petitioners are invoking the Article 32 jurisdiction of this Hon’ble Court on two grounds, namely, there is a direct infringement an violation of fundamental rights, Articles, 21, 21A, 14, 19, 25 and 26 of the Constitution of India, 1950 and also as events are happening in multiple states and likely to spread further, it would be better and proper that this Hon’ble Court takes cognizance of the issue as different High Courts in different States may pass conflicting Orders. Moreover, being a Constitutional aspect pertaining pan-India, this Hon’ble Court being the highest Court / Constitutional Court of the land, may take cognizance of the issues at hand.

- D. Because the right to practice religion as enshrined as a fundamental right under the Constitution of India, 1950 has to be protected.
- E. Because wearing of “Hijab” or head scarf of girl students falls under right of religious freedom. The question / issue herein is not “right to wear clothes of one’s own choice”. Needless to state, that prescribed uniform has to be worn. But “Hijab” or merely a head scarf does not fall under the Karnataka Education Act’ 1983 as invoked for the purposes of the G.O. dated 5.2.2022.
- F. Because the G.O. dated 5.2.2022 issued by the State of Karnataka is illegal, unlawful and unconstitutional.
- G. Because the Constitution guarantees protection to religious practices based on what one's conscience profess. Therefore, in all circumstances, he can retain his identity based on the religion. The State cannot interfere with the practice of religious affairs which would obliterate his religious identity. The environment in which one

has to live is determined by the patterns of the idea formed by his conscience subject to the restrictions as referred under Article 25(1).

- H. Because this Hon'ble Court in ***The Commissioner of Hindu Religious Endowments, Madras vs. Sri. Lakshmindra Thirtha Swamiar of Sri Shirur Mutt [1954 S.C.R 1005]***, held as follows:

"It is to be noted that both in the American as well as in the Australian Constitutions the right to freedom of religion has been declared in unrestricted terms without any limitation whatsoever. Limitations, therefore, have been introduced by courts of law in these countries on grounds of morality, order and social protection. An adjustment of the competing demands of the interests of Government and constitutional liberties is always a delicate and a difficult task and that is why we find difference of judicial opinion to such an extent in cases decided by the American courts where questions of religious freedom were involved. Our Constitution-makers, however, have embodied the limitations which have been evolved by judicial pronouncements in America or Australia in the Constitution itself and the language of articles 25 and 26 is sufficiently clear to enable us to determine without the aid of foreign authorities as to what matters come within the purview of religion and what do not. As we have already indicated, freedom of religion in our Constitution is not confined to religious beliefs only; it extends to religious practices as well subject to the restrictions which the Constitution itself has laid down. Under article 26 (b), therefore, a religious denomination or organization enjoys complete autonomy in the matter of deciding as to what rites and ceremonies are essential according to the tenets of the religion they hold and no outside authority has any jurisdiction to interfere with their decision in such matters."

“Thus, Articles 25 and 26 enshrine fundamental values of neutral, liberal and secular ideals of the State to suit the pluralist religious communities in India. The constitutional philosophy therefore, alludes, religion must be a private affair and neither religious ideals would bind the constitutional polity nor would the constitutional ideals bind the religion, to stand out the religious affairs as to be governed by the personal law. The protection of essential practice thus means that liberty is beyond the interference by the State and the State has the obligation to respect the essential religious practice. Any interference with the person’s right or denominations right thus requires justification of State interest to override such protection.”

- I. Because “In *A.S Narayana Deeshitulu Vs State of A.P and others [1996 (9) S.C.C 548]*, it was held as follows:

“Essential or integral part of religion to be ascertained from the doctrine of that religion itself according to its tenets, historical backgrounds and change in evolved process and only integral or essential part of religion is protected. ”

It was further held as follows:

"The religious freedom guaranteed by Articles 25 and 26, therefore, is intended to be a guide to a community life and ordain every religion to act according to its cultural and social demands to establish an egalitarian social order. The protection of Articles 25 and 26 of the Constitution is not limited to matters of doctrine. They also extend to acts done in furtherance of religion and, therefore, they contain a guarantee for rituals and observances, ceremonies and modes of worships which are integral parts of the religion. Articles 25 and 26, therefore, strike a balance between the rigidity of right to religious belief and faith and their intrinsic restrictions in matters of religion, religious beliefs and religious practices and

guaranteed freedom of conscience to commune with his Cosmos, Creator and realize his spiritual self."

- J. Because covering the head and wearing a long sleeve dress by women have been treated as an essential part of the Islamic religion. It follows a fortiori, Article 25(1) protects such prescription of the dress code. Then the only question remains is the essential practice as above would offend the public order, morality, and health or is it necessary to regulate such essential practice to give effect to other provisions of Part III of the Constitution. In **Bijoe Emmanuel and others vs. State of Kerala and Others [(1986) 3 SCC 615]**, the Hon'ble Supreme Court held as follows:

"Therefore, whenever the Fundamental Right to freedom of conscience and to profess, practise and propogate religion is invoked, the act complained of as offending the Fundamental Right must invoke, the act complained of as offending the Fundamental Right must be examined to discover whether such act is to protect public order, morality and health, whether it is to give effect to the other provisions of Part III of the Constitution or whether it is authorized by a law made to regulate or restrict any economic, financial, political or secular activity which may be associated with religious practice or to provide for social welfare and reform. It is the duty and function of the court so to do."

- K. Because the Kerala High Court held as under:-

"31. The rationale for prescribing dress code by the Board is to avoid malpractices in the examination. The prescription as above is not by invoking an interest of public order or morals of the society. The public order is one which would affect community or

public at large. The morality is pertaining to conscience or moral sense of the prescribed standards in the society. The health denotes well-being of a person. The restriction by the Board can be only on any grounds referred as above. In the absence of any conditions referable under Article 25(1), the essential practice cannot be regulated or restrained. No doubt, a restriction can be imposed under Article 19(2) of the Constitution in the interest of the security of the State as contemplated under Article 25(1) which also states the freedom would be subject to the provisions of Part III of the Constitution."

"32. The right of women to have the choice of dress based on religious injunctions is a fundamental right protected under Article 25(1), when such prescription of dress is an essential part of the religion. As has been noted above, that right can be negated only in any of the circumstances referred under Article 25(1). The attempt of the Board to ensure transparency and credibility of the examinations also cannot be ignored by this Court. However, the approach of the Court is always to harmoniously accommodate the competing interest without there being any conflict or repugnancy. The interest of the Board can be safeguarded by allowing the invigilator to frisk such candidates including by removing scarf. However, safeguard has to be ensured that this must be done honouring the religious sentiments of the candidates. Therefore, women invigilators can be permitted to frisk such candidates. It is to be noted that this Court, for the last year examination, in a similar challenge in W.P.(C).No.21696/2015 ordered as follows:

"... there shall be a direction that at the two centres indicated in the writ petitions, the Invigilator along with a woman Invigilator or another authorized officer shall be present half an hour before the examination commences. The petitioners who intend to wear a dress according to their religious custom, but contrary to the dress code, shall present themselves before the Invigilator half an hour before the examination and on any suspicion expressed by the

Invigilator, shall also subject themselves to any acceptable mode of personal examination as decided by the Invigilator, shall also subject themselves to any acceptable mode of personal examination as decided by the Invigilator, but however carried on only by an authorized person of the same sex. If the Invigilator requires the head scarf or the full sleeve garments to be removed and examined, then the petitioners shall also subject themselves to that, by the authorized person. It is also desirable that the C.B.S.E issue general instructions to its Invigilators to ensure that religious sentiments be not hurt and at the same time discipline be not compromised."

"33. The learned counsel for the petitioner fervently urged before this Court that all similarly situated students must be given the same relief. He relied on judgment of the Hon'ble Andhra Pradesh High Court in **M. Peeran Saheb and others vs. Special Officer cum Collector, Punganur Municipality and other, [AIR 1988 Andhra Pradesh 377]**, wherein it was held as follows:

"The learned Advocate General further contended that in case of violation of fundamental right, the person whose right is violated should alone come and seek relief and that general relief cannot be granted by the Court. I am afraid I cannot accede to the contention of the learned Advocate General in view of the judgment of the Supreme Court in Judges transfer case. The petitioners claim the relief on the ground of violation of Article 25. Having regard to the nature of the relief granted, it is not necessary that every one who objects to be photograph should approach this Court. Those of the citizens who have declined to be photographed but did not approach this court will also be entitled to the benefit of the order provided they fall within the class held entitled to the relief."

"34. The learned Senior Counsel appearing for the Board opposed this prayer. He would submit that no such omnibus relief can be granted to unidentifiable applicants and there would be a practical difficulty for the Board in implementing such directions."

"35. This Court already found that the right to practice the essential part of the religion as guaranteed under Article 25(1) is a negative liberty which means the person is insulated from interference by the authority or the State except in situations referred therein. Therefore, the Board cannot restrict the claim of any similarly situated persons. It is only when a claim is based on a positive liberty, the relief being granted by the Court should be restricted. When this Court declares the law as above, all similarly situated persons would be entitled to such benefits without approaching the Court. In this writ petition, involving a question of negative liberty, the substantial relief is granted as a declaration. Therefore, such declaration cannot be confined to the first petitioner alone. All similarly situated persons forming into such class would be entitled for the relief granted by this Court. In fact, such declaration is not a declaration of the first petitioner's right alone but a declaration of the law itself. "

"36. However, the practical difficulty in implementing the direction of this Court has to be considered. This Court taking note of the practical difficulty of the Board for the conduct of the examination during the last year, in W.P.(C).No.21696/2015 had provided sufficient safeguards. This Court is of the view that the same can be followed for this year as well, and the Board can take necessary steps for the next year onwards, while inviting applications itself, to protect such rights. **It is to be noted practical difficulty cannot be an excuse to honor the fundamental rights.** Therefore, this Court is of the view that for this year the Board shall permit all candidates, who based on the religious practice want to wear head scarf and full sleeved length dress, to appear for the exams."

"37. This Court need not interfere with the dress code prescription as referred in the Board's prospectus as others are bound by such prescription except to hold that the dress code as above shall not be enforced against the candidates, who by virtue of Article 25(1) are protected from wearing such dress as

prescribed in the injunctions of their faith. The writ petition is allowed and disposed of by granting relief as ordered in W.P. (C).No. 21696/2015 to all who fall within the same class as protected under Article 25(1). It is made clear that all such candidates will have to report at the Centre at least half an hour before the schedule time."

- L. Because it is the solemn right of Muslim girls and women to wear a *Hijab* out of choice as it is an essential feature, custom, practice and tradition of Islamic religion and the same ought to be recognized as a fundamental right under Part III of the Constitution of India, 1950.
- M. Because Muslim girls and women cannot be prohibited from schools, colleges, educational institutions, and places of work on account of them wearing a "*Hijab*" or a head scarf and such action violates Articles 21, 21A, 14, 19 and 25-26 of the Constitution of India, 1950.
- N. Because Muslim girls and women need not be classified, distinguished, differentiated, and discriminated upon them wearing *Hijab* or a head scarf.

- O. Because Muslim girls and women must be permitted to attend schools, colleges, educational institutions, and places of work wearing a *Hijab* or a head scarf; and
- P. Because the right / fundamental right to wear a *Hijab* must be put at parity with customs, practices, traditions constitutionally permitted in other religions such as wearing of *Pagris* Sikhs and any other / other as may be applicable.
- Q. Because the fundamental rights and constitutional rights of as enshrined under the Constitution of India, 1950 including that of Article 21, 21A, 14, 19, 25, 26 thereof are being violated on account of the facts as illustrated in this writ petition.
- R. Because the neglect and negligence of the Respondent States is apparent on the face of it and contrary to their Constitutional mandate and duties.
- S. Because the present writ petition is liable to be allowed.

5. That the Petitioners have not filed any other similar Petition earlier either in this Hon'ble Court or before any Hon'ble High Court.
6. That under these circumstances, the Petitioners are left with no other alternative or equally efficacious remedy but to invoke the extra-ordinary jurisdiction of this Hon'ble Court under Article 32 of the Constitution of India, 1950.

PRAYER

In the facts and circumstances it is therefore, respectfully prayed that this Hon'ble Court may graciously be pleased to: -

- a) Issue a Writ in the nature of mandamus declaring and directing that it is the fundamental right (under Part III of the C.O.I., 1950) of Muslim girls and women to wear *Hijab* or head scarfs being an essential feature, custom, practice or tradition of Islamic religion, if they voluntary choose to wear so; and

- b) Issue a Writ in the nature of mandamus directing the Respondents that Muslim girls and women need not be classified, distinguished, differentiated, and discriminated upon them wearing *Hijab* or a head scarf; and
- c) Issue a Writ in the nature of mandamus directing the Respondents that Muslim girls and women must be permitted to attend schools, colleges, educational institutions and places of work wearing a *Hijab* or a head scarf; and
- d) Issue a Writ in the nature of certiorari quashing the G.O. dated 5.2.2022 issued by the State of Karnataka under the Karnataka Education Act' 1983 as unlawful and unconstitutional; and
- e) Issue such other and further appropriate Writ/s Order/s, Direction/s as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case to meet the ends of justice.

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

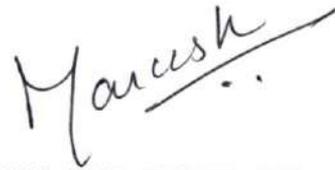
DRAWN BY: -

ROOPESH SINGH BHADAURIA

UMESH KUMAR SINGH

AWANITIKA

ADVOCATES



DRAWN AND FILED BY: -

MAREESH PRAVIR SAHAY
Advocate for the Petitioner/s

Drafted on: 10.2.2022

Filed on: 10.2.2022

Place: New Delhi

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
WRIT PETITION [CIVIL] NO.

OF 2022

In the matter of: -

Srinivas Bhadravathi Venkata &Anr.

....PETITIONERS

VERSUS

Union of India and Ors.

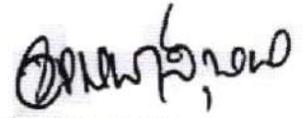
....RESPONDENTS

AFFIDAVIT

I, Srinivas Bhadravathi Venkata, S/o Shri Venkatesh G.V., R/o 726 / A, M.C. Modi Street, Rajajinagar, Bangalore North, Bengaluru, Rajajinagar, Bengaluru-560010 (Karnataka), aged about 41years, presently at New Delhi, do hereby solemnly affirm and state as under: -

1. That I am Petitioner in the above noted petition and I am well conversant with the facts and circumstances of the case and as such am competent to swear this Affidavit.
2. That the accompanying Writ Petition has been drafted by my counsel on my instructions and containing Pages B to 2A of the List of Dates and Paras 1 to 6 of Writ Petition from pages 1 to 35 which are true and correct to my knowledge and belief.
3. That I have gone through a copy of the interlocutory applications, and I state that the contents thereof are true and correct to my knowledge and belief.
4. That there is no personal gain, private motive, or oblique reason in filing the accompanying Writ Petition which is in public interest.

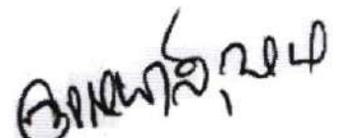
5. The contents of the Writ Petition as well as the interlocutory application(s) have been read over to me and I say that the same are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.


DEPONENT

VERIFICATION: -

I, the above-named deponent do hereby verify that the contents of my above Affidavit are true to my knowledge and belief, on basis of records as available in the public domain and upon legal advice received and believed to be true and correct. No part of it is false and nothing material has been concealed therefrom.

Verified at _____ on this the ^{10TH} day of February' 2022.
BENGALURU


DEPONENT

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION [CIVIL] NO. OF 2022

In the matter of: -Srinivas Bhadravathi Venkata & Anr. ...PETITIONERS
VERSUS

Union of India and Ors. ...RESPONDENTS

AFFIDAVIT

I, Aksa Hazra, D/o Md. Iqbal Bava, R/o 14- 36 G, Kaikamba,
Near M.K. Tower, B Mooda, VTC: Bantwal, P.O.: Jodumarga, Sub.
District: Bantwal, District: Dakshina Kannada- 574219 (Karnataka),
aged about 19 years, do hereby solemnly affirm and state as under: -

1. That I am Petitioner in the above noted petition and I am well conversant with the facts and circumstances of the case and as such am competent to swear this Affidavit.
2. That the accompanying Writ Petition has been drafted by my counsel on my instructions and containing Pages B to ^{ZA} _ of the

List of Dates and Paras 1 to 6 of Writ Petition from pages 1 to 35
_ which are true and correct to my knowledge and belief.

3. That I have gone through a copy of the interlocutory applications, and I state that the contents thereof are true and correct to my knowledge and belief.
4. That there is no personal gain, private motive, or oblique reason in filing the accompanying Writ Petition which is in public interest.
5. The contents of the Writ Petition as well as the interlocutory application(s) have been read over to me and I say that the same are true and correct to the best of my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.



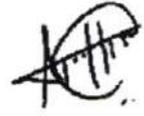
DEPONENT

VERIFICATION:-

I, the above-named deponent do hereby verify that the contents of my above Affidavit are true to my knowledge and belief, on basis of records as available in the public domain and upon legal advice received and believed to be true and correct. No part of it is false and nothing material has been concealed therefrom.

Verified at _____ on this the ___ day of February 2022.

DAKSHINA KANNARA 10TH



DEPONENT

The Constitution of India 1950

Article 14 in The Constitution Of India 1950

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 19 in The Constitution Of India 1950

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 to carry on 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 1950

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.

Article 21A in The Constitution Of India 1950

21A. The State shall provide free and compulsory education to all children of the age of six to fourteen years in such manner as the State may, by law, determine.

Article 25 in The Constitution Of India 1950

25. Freedom of conscience and free profession, practice and propagation of religion

(1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus Explanation I The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion

Explanation II In sub clause (b) of clause reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

Article 26 in The Constitution Of India 1950

26. Freedom to manage religious affairs Subject to public order, morality and health, every religious denomination or any section thereof shall have the right

(a) to establish and maintain institutions for religious and charitable purposes;

(b) to manage its own affairs in matters of religion;

(c) to own and acquire movable and immovable property; and

(d) to administer such property in accordance with law

Muslim schoolgirl asked to remove hijab in Puducherry, inquiry ordered- The New Indian Express

Muslim schoolgirl asked to remove hijab in Puducherry, inquiry ordered

After Karnataka, a controversy has raked up in Puducherry after a government school headmaster allegedly asked a Muslim student not to wear hijab and burqa in school.

Published: 08th February 2022 02:01 AM | Last Updated: 08th February 2022 02:01 AM

By Debjani Dutta

Express News Service

PUDUCHERRY: After Karnataka, a controversy has raked up in Puducherry after a government school headmaster allegedly asked a Muslim student not to wear hijab and burqa in school.

A joint delegation of political and social activists today petitioned the Director of Education P T Rudra Goud in this regard seeking action against the incident. At the same time, they have demanded a ban on RSS activities in the courtyard of a government school, following a video going viral.

The girl is a student of 9th standard in Government High School in Ariyankuppam, who has been coming to school wearing the hijab and burqa, according to her father Iqbal Basha.

She would remove the burqa once she reaches her school and attend classes wearing hijab, he told TNIE. But this was objected to by the school headmaster, after the school reopened on Feb 4, he said. Though she has been wearing the hijab from first standard while studying in the same school, the objection has been raised a few months back.

Basha who is also the Organiser (South) of the SDPI party in Puducherry asked the Headmistress to give her objections in writing, but she refused and directed him to meet the higher authorities in the education department. Following this, he approached political and social activists, who took up the matter with the authorities of Education department.

One of the petitioners Gayathri Srikanth, a member of DMK's women wing said how could a Muslim student be disallowed from wearing a hijab in school. In all colleges and Universities, Muslim students have been permitted to wear it.

"The matter has just been brought to my knowledge and I have asked the Chief Education officer to inquire and give a report", Rudra Goud told TNIE.

He clarified that no orders have been issued banning students from wearing hijab in school.

However with regard to the complaint, reports have been reaching him that this student suddenly started coming to school wearing burqa, which was objected by the Headmaster of the school, he said. However, a detailed report is awaited.

Following the incident, he said that the Education department will formulate guidelines on dress code for schools and after government approval will direct all students to follow it, said Goud.

"Now someone is coming wearing Burqa, tomorrow some other student may come wearing saffron robes or shawls", he said citing Karnataka and hence a dress code guidelines will be issued for everyone. Puducherry government is providing the school uniform and in addition to that the few things that would be permitted, he said.

On the other hand, a video showing some physical training to school students in the courtyard of a government school in Sompet in Mannadipet Commune with students shouting "Jai kali", "Bharat Mata ki jai" has gone viral. The petitioners have raised objections to the use of the school ground, allegedly for RSS activities and sought a ban on it.

The Education Department has not given any permission to anyone for conducting any physical training or yoga activities, said Rudra Goud. Most primary schools do not have a watchman and it is difficult to control the use of the open courtyard after school, he added. If someone applies for permission, it will be examined and accordingly decided, said Goud.

The political and social activists have faulted the NDA government in Puducherry for such activities.

ANNEXURE P2

Burqa-clad girl heckled by students with saffron stoles in Mandya college-

THE NEW INDIAN EXPRESS

Burqa-clad girl heckled by students with saffron stoles in Mandya college

Hundreds of students, wearing saffron stoles, were seen raising pro-Hindu slogans outside the PES college campus on Tuesday morning.

Published: 09th February 2022 06:18 AM.

By Express News Service

MYSURU: Tension prevailed at the PES Arts, Science and Commerce College in Mandya when students wearing saffron stoles heckled a burqa-clad girl student on Tuesday while raising 'Jai Shri Ram' slogans. Hundreds of students, wearing saffron stoles, were seen raising pro-Hindu slogans outside the PES college campus on Tuesday morning.

A burqa-clad student, who was walking towards her classroom from the parking area, was intimidated by the students raising 'Jai Shri Ram' slogans. Irked by this, the girl responded by chanting 'Allah-hu-Akbar' and was later escorted away by the college staff to prevent any untoward incident.

2/10/22, 11:27 AM Hijab row: MP talks of code on uniform, Bihar, and Tripura strike note of caution | Cities News, The Indian Express

Hijab row: MP talks of code on uniform, Bihar, and Tripura strike note of caution

Education ministers of Opposition-ruled states Maharashtra and West Bengal criticised the BJP for "politicising" school uniform.

Written by Iram Siddique , Santosh Singh , Debraj Deb , Pallavi Smart | Agartala, Bhopal, Mumbai, Patna |

Updated: February 9, 2022

As the controversy over the hijab **escalated in Karnataka** Tuesday, it found an echo in Madhya Pradesh where the government said it was working on a uniform dress code, but at least two states, where the BJP is ruling in alliance, struck notes of concern.

On Tuesday, even as Madhya Pradesh School Education Minister Inder Singh Parmar called for a hijab ban, his counterpart in Bihar, Education Minister and senior JD(U) leader Vijay Kumar Choudhary told The Indian Express: "We have no such problem (Karnataka-like) in Bihar."

Asked about the government's response if there were demands as in Karnataka, he said: "Please pray that no such situation arises".

In a state where girls' education has been Nitish Kumar's key election plank, his colleague and national spokesperson KC Tyagi was more forthright. "Religious

practices and rituals should not be hurt. Sikh students keep a beard, will one ban that? The status quo on dress code should be maintained and there is no need for new rules which can cause contradictions in society. Our party has always been in support of communal harmony.”

Said Tyagi's ally BJP national spokesman Guru Prakash Paswan: “Educational institutions are meant for the development of one's own mind...Veil is not part of our culture.”

However, in Tripura, state Education Minister and BJP leader Ratan Lal Nath said there are no plans for a uniform dress code. “This might be an issue in some states, but for our state this (wearing hijab) is not...Our government is committed to offering quality education to students. This is not directly related to that. We are not interested at all to give importance to this”, he said. Nath added that the Tripura government works after taking consent from all stakeholders and doesn't believe in raking up a controversy on an issue which doesn't exist.

The education minister of BJP-ruled Himachal Pradesh, Govind Singh Thakur, said nothing is being actively considered on introducing a uniform dress code in schools so far.

Education ministers of Opposition-ruled states Maharashtra and West Bengal criticised the BJP for “politicising” school uniform.

“The Constitution gives each Indian a right to follow any religion. But bringing such discussions to educational institutions is a sad state of politics,” said Maharashtra School Education minister Varsha Gaikwad. “This makes one wonder if this politicisation is for Uttar Pradesh elections just because there is nothing else to talk about. The video that went viral today where a mob of boys charged at a hijabwearing

girl was really disturbing. It is the government's responsibility to ensure all students are safe in educational institutions."

West Bengal Education Minister Bratya Basu linked it to what he called the BJP's bid to "saffronise" education. "We strive to ensure religious harmony among people and respect every religion. This kind of ban (on hijab) can go on in Karnataka or Madhya Pradesh but never in West Bengal."

Rajasthan Education Minister BD Kalla said the state government does not impose any restrictions on women wearing hijab in educational institutions. "The BJP always tries to make issues out of non-issues," he said.

Earlier in the day, in Bhopal, Parmar announced: "Hijab is not a part of uniform and, therefore, I feel it should be banned. There is no objection to people wearing the hijab while stepping out of their homes. But in schools, there should be a sense of equality and so a uniform dress code is required."

THE TIMES OF INDIA

08:20 (IST) Feb 09

How Karnataka hijab row unfolded, spread

HOW ROW UNFOLDED, SPREAD

Dec 31: An incident of about six students from Government PU College for Girls, Udupi, demanding they wear hijab inside classrooms comes to light. During admission, they were informed about the rules and nobody had objected, the college says

Jan 1: A meeting organised at the college decides not to allow students to wear headscarf inside classrooms

Jan 6: Pompei College Aikala decides to allow students to wear only prescribed uniform. College hogs limelight after pictures and videos of students wearing saffron shawls on campus go viral

Jan 13: Eight students from Government PU College for Girls, Udupi, decide to attend classes only if they are allowed to wear hijab. MLA Raghupathi Bhat writes to PU director. Students claim the undertaking they signed at the time of admission spoke only about wearing uniform and identity cards

Jan 19: Another attempt is made to solve the headscarf row at the Udupi college. It's decided that students can wear hijab in classrooms; however, once the teacher arrives and classes begin, they will have to remove it. In case they do not agree, they will have to wait for government orders

Jan 25: Karnataka government decides to set up expert committee to decide on uniform and dress code. It directs colleges in Udupi to maintain status quo till panel takes a final decision. On January 28, even as the college betterment committee at the Government PU College for Girls starts discussions with Muslim leaders and parents to end the hijab crisis, Campus Front of India states it will continue to support the girls

Jan 31: MLA Raghupathi Bhat says action will be initiated against students who enter classrooms wearing hijab

Jan 31: Five Muslim girls from Government PU

College for Girls, Udupi, approach high court seeking a declaration from it that they have a fundamental right to practise essential religious practices, including wearing of hijab as per Islamic faith, on college premises. On February 1, six students denied entry into classroom

Feb 2: Controversy erupts in another government college — in Kundapur — as 28 girls sport hijab and about 50 boys don saffron shawl. MLA Haladi Srinivas Shetty requests students to follow prescribed uniform

Feb 2: Some students protest against those wearing hijab in Sir MV Government College in Bhadravathi, Shivamogga



Feb 3: Controversy flares up in Kundapur Junior College (**in pic**) as nearly 28 Muslim students denied entry for wearing hijab. It spreads to Bhandarkar's Arts and Science College and later to Government PU College in Byndoor, among other institutions

Feb 4: A group of students from government PU college in Ramadurga, Belagavi, comes to class draping saffron shawls on Feb 1. But incident comes to light on Feb 4

Feb 8: Tension grips Mahatma Gandhi Memorial College in Udupi after Hindu students wear saffron turbans and shawls to counter students sporting hijab

Feb 8: Govt declares 3-day holiday from Wednesday as high court hears petition filed by students

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
IN
WRIT PETITION [CIVIL] NO. OF 2022

IN THE MATTER OF:-

Srinivas Bhadravathi Venkata and Another ...Petitioners

VERSUS

Union of India and Ors. ...Respondents

APPLICATION FOR EXEMPTION FROM FILING ATTESTED
AFFIDAVITS

To
The Hon'ble Chief Justice of India
and his companion justices of the
Hon'ble Supreme Court of India

The humble petition of the
above named Petitioner/s

MOST RESPECTFULLY SHEWETH

1. That the accompanying writ petition which is in essence a petition in public interest at large is being filed seeking appropriate Order(s) and Direction(s) to be issued to the Respondents and to the public at large, recognizing the right of Muslim girls and women to wear "Hijab" or a "head scarf" whether in schools, colleges, educational institution and even at places of work, as a fundamental right if they choose to wear so and for allied and consequential Orders and Directions.

2. The facts of the present case have been given in detail in the accompanying writ petition and list of dates and the same are not being repeated herein for the sake of brevity. The Petitioners crave leave of this Hon'ble Court to refer to and rely upon the same as and when necessary.

3. The Petitioners submit that due to difficulty in travelling because of Covid-19 situation and with no access to facilities such as notaries / oath commissioners, the Petitioners may be permitted to file the accompanying Writ Petition without attested Affidavits. The Petitioners undertake that they shall duly file attested Affidavits as and when services for the same are made available.

4. The Petitioners have a good case on merits in law and on facts and are most likely to succeed before this Hon'ble Court. The balance of convenience is in favour of the Petitioners and against the Respondents / State. That if the exemption is not granted, the Petitioners will suffer from irreparable loss, harm and injury besides serious, grave prejudice and hardship.

5. In these facts and circumstances, it is most humbly prayed that this Hon'ble Court may be pleased to:

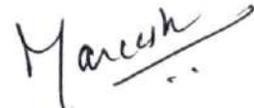
PRAYER

A. Permit the filing of the Writ Petition without attested Affidavits;
and

B. Pass such other/further order as this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case

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

DRAWN AND FILED BY:



MAREESH PRAVIR SAHAY
Advocate for the Petitioner/s

New Delhi
Dated: 10.2.2022

MATTER NOT LISTED WITHIN FIVE DAYS OR MENTIONED
MATTER LISTED ON DT.

SECTION-

✓ IN THE SUPREME COURT OF INDIA
CIVIL/CRIMINAL ORIGINAL/APPELLATE JURISDICTION

S.L.P. / W.P. / ✓ CIVIL / ✓ CRIMINAL APPEAL / T.P. (CIVIL/CRIMINAL) NO.

OF 2022

IN THE MATTER OF:

SRINIVAS BHADRAVATHI VENKATA & ANR. ✓ Petitioner(s)/Appellant(s)

Versus

UNION OF INDIA AND ORS Respondent(s)

INDEX

Sl. No.	Particulars	Copies Court Fees
1.	WRIT PETITION civil u/A 32 Constitution of India along with Affidavit.	
2.		
3.		
4.		
5.		
6.		

Certified that the copies are correct

Filed by:

Mareesh - A.O.R. CODE: 2638

MAREESH PRAVIR SAHAY

Advocate for the Petitioner(s)/Appellant(s)/Respondent(s)

1361 / 37, ARUN VIHAR, NOIDA- 201 303 (U.P.)

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Phones: - +91- 9810087694

REYAZUL NABI. I.C.NO.1325

REGD. CLERK

G.D. GIRI. I.C. NO. 6056

+91- 9958823908

New Delhi

Filed on: 10.2.22.



VAKALATNAMA

IN THE SUPREME COURT OF INDIA

CRIMINAL / APPELLATE JURISDICTION / ORIGINAL JURISDICTION

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL / CRIMINAL) NO. OF 2022

CIVIL / CRIMINAL APPEAL NO. OF 2022

SRINIVAS BHADRAVATHI VENKATA & ANOTHER PETITIONER(S) / APPELLANT(S)

VERSUS

UNION OF INDIA & ORS. RESPONDENT(S)

I/We Srinivas Bhadravathi Venkata & Akshay Hazra

Petitioner(s)/Respondent(s) in the above Petition Suit/Appeal/Reference do hereby appoint and retain

MAREESH PRAVIR SAHAY Advocate

To act and appear for me/us in the above Suit/Petition/Appeal/Reference and on my/our behalf to conduct and prosecute or defend the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and applications for review, to file and obtain return of documents, and to deposit and receive money on my/our behalf in the said Suit/Appeal/Petition/Reference and applications of Review to represent me/us and to take all necessary steps on my behalf in the above matter. I/ We agree to ratify acts done by the aforesaid advocate in pursuance of this authority.

Dated this the 9th day of FEBRUARY, 2022

ACCEPTED, IDENTIFIED AND VERIFIED

Mareesh

MAREESH PRAVIR SAHAY
Advocate



[Signature]
Petitioner(s) / Respondent(s) / Appellant(s)

Memo of Appearance

The Registrar,
The Supreme Court of India

Sir,

Please enter my appearance on behalf of Petitioner(s) / Appellant(s) / Plaintiff(s) / Defendant(s) / Respondent(s) / Caveator(s) / Applicant(s) / Non-Applciant(s) in the above matter.

Dated 9.2.22

Mareesh

MareeshPravir Sahay
Advocate-on-Record, Supreme Court of India
A.O.R. Code No. 2638
The address of service of the said Advocate is:-
1361, Sector-37, Arun Vihar, Noida-201 303 U.P.
Phones:- 91-120-4324 579; 98 99 000923
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VAKALATNAMA

IN THE SUPREME COURT OF INDIA

CIVIL / CRIMINAL / APPELLATE JURISDICTION / ORIGINAL JURISDICTION
PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL / CRIMINAL) NO. OF 2022
CIVIL / CRIMINAL APPEAL NO. OF 2022

SRINIVAS BHADRAVATHI VENKATA & ANOTHER PETITIONER(S) / APPELLANT(S)

VERSUS

UNION OF INDIA & ORS RESPONDENT(S)

I/We Srinivas Bhadravathi Venkata & Aksh Hazara

Petitioner(s)/Respondent(s) in the above Petition/Suit/Appeal/Reference do hereby appoint and retain

MAREESH PRAVIR SAHAY Advocate

To act and appear for me/us in the above Suit/Petition/Appeal/Reference and on my/our behalf to conduct and prosecute or defend the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and applications for review, to file and obtain return of documents, and to deposit and receive money on my/our behalf in the said Suit/Appeal/Petition/Reference and applications of Review to represent me/us and to take all necessary steps on my behalf in the above matter. I/We agree to ratify acts done by the aforesaid advocate in pursuance of this authority.

Dated this the 9th day of FEBRUARY 2022

ACCEPTED, IDENTIFIED AND VERIFIED

MAREESH PRAVIR SAHAY
Advocate

Petitioner(s)/ Respondent(s)/Appellant(s)

Memo of Appearance

The Registrar,
The Supreme Court of India

Sir,

Please enter my appearance on behalf of Petitioner(s) / Appellant(s) / Plaintiff(s) / Defendant(s) / Respondent(s) / Caveator(s) / Applicant(s) / Non-Applicant(s) in the above matter.

Dated 9.2.2022

Mareesh Pravir Sahay
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A.O.R. Code No. 2638
The address of service of the said Advocate is:-
1361, Sector-37, Arun Vihar, Noida-201 303 U.P.
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ಭಾರತ ಸರ್ಕಾರ
Government of India

ಶ್ರೀನಿವಾಸ್ ಬಿ ವಿ
Srinivas B V

ಬನ್ಮ ದಿನಾಂಕ / DOB: 07/11/1980
ಪುರುಷ / Male

8930 5007 2607

ನನ್ನ ಆಧಾರ್, ನನ್ನ ಗುರುತು

ಭಾರತೀಯ ವಿಶಿಷ್ಟ ಗುರುತು ಪ್ರಾಧಿಕಾರ
Unique Identification Authority of India

ವಿಳಾಸ: ಶಂಕರ / ತಾಯಿಯ ಹೆಸರು:
ವೆಂಕಟೇಶ್ ಬಿ ವಿ, #726/ಎ, ಎಂ ಸಿ ಮೋದಿ
ರಸ್ತೆ, ರಾಜಾಜಿನಗರ, ಬೆಂಗಳೂರು ಉತ್ತರ,
ಬೆಂಗಳೂರು, ರಾಜಾಜಿನಗರ, ಕರ್ನಾಟಕ,
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आयकर विभाग
INCOME TAX DEPARTMENT

भारत सरकार
GOVT. OF INDIA

SRINIVAS BV
VENKATESH
07/11/1980
Permanent Account Number
BIGPS8899L

B V Srinivas
Signature

182011

TWE 001Y
Maurish



ಭಾರತ ಸರ್ಕಾರ
Government of India

ಭಾರತೀಯ ವಿಶಿಷ್ಟ ಗುರುತು ಪ್ರಾಧಿಕಾರ
Unique Identification Authority of India

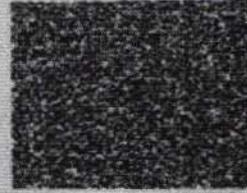
ಸೇವಾಸಂಖ್ಯೆ / Enrollment No. : 0821/82203/40905

To
Aksa Hazra
ಅಕ್ಷಾ ಹಾಜ್ರಾ
C/O: Mohammed Iqbal Bava,
#14-36G,
Kaikamba,
Near M K Tower,
B Mooda,
VTC: Bantwal, PO: Jodumarga,
Sub District: Bantwal, District: Dakshina Kannada,
State: Karnataka, PIN Code: 574219.
Mobile: 9742614631

66776151



KF667761518FI



ನಿಮ್ಮ ಆಧಾರ್ ಸಂಖ್ಯೆ / Your Aadhaar No. :

9516 2469 1653

ನನ್ನ ಆಧಾರ್, ನನ್ನ ಗುರುತು



ಭಾರತ ಸರ್ಕಾರ

Government of India



Issue Date: 29/03/2016



ಅಕ್ಷಾ ಹಾಜ್ರಾ
Aksa Hazra
ಅವಧಿ / DOB: 29/07/2002
ಸ್ತ್ರೀ / Female

9516 2469 1653

ನನ್ನ ಆಧಾರ್, ನನ್ನ ಗುರುತು

TRUE COPY
Manish

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION [CIVIL] NO.

OF 2022

In the matter of:-

1. Mr. Srinivas Bhadravathi Venkata
S/o Shri Venkatesh G.V.
R/o 726 / A, M.C. Modi Street, Rajajinagar
Bangalore North, Bengaluru, Rajajinagar
Bengaluru- 560010 (Karnataka)
2. Ms. Aksa Hazra, D/o Md. Iqbal Bava
R/o 14- 36 G, Kaikamba, Near M.K. Tower
B Mooda, VTC: Bantwal, P.O.: Jodumarga
Sub. District: Bantwal
District: Dakshina Kannada- 574219 (Karnataka)

....PETITIONERS

VERSUS

1. UNION OF INDIA
THROUGH SECRETARY
Ministry of HRD
Shastri Bhawan
New Delhi-110 011
2. UNION OF INDIA
THROUGH SECRETARY
Ministry of Law and Justice
Shastri Bhavan
New Delhi-110 011
3. State of Karnataka

THROUGH CHIEF SECRETARY
Government of Karnataka, Room No.320
3rd Floor, Vidhana Soudha
Bengaluru-560 001 (Karnataka)

4. U.T. of Puducherry
Through Chief Secretary
Goubert Avenue
Beach Road
White Town
Puducherry- 605001
5. State of Madhya Pradesh
THROUGH CHIEF SECRETARY
M.P. Mantralaya
Ballabh Bhawan
Bhopal- 462 004
Madhya Pradesh
6. ALL India Personal Muslim Law Board
Through Convenor
Ml. Md. Wali Rahmani Sb.
Sajjada Nashin, Khanqah-e-Rahmani
Munger- 811 201 (Bihar)
7. National Commission of Women
Through its Chairperson
Plot No. 21, FC 33, Institutional Area
Jasola, Delhi- 110 025
8. National Human Rights Commission
Manav Adhikar Bhawan
Block-C, G.P.O. Complex
I.N.A.
New Delhi- 110 023

....CONTESTING RESPONDENTS