

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

WRIT PETITION (CIVIL) NO. _____ OF 2023

(A PETITION WITH AFFIDAVIT UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA SEEKING A DIRECTION, ORDER, OR
APPROPRIATE WRIT DECLARING AND QUASHING THE GOVERNMENT
OF NATIONAL CAPITAL TERRITORY OF DELHI (AMENDMENT)
ORDINANCE, 2023 AS UNCONSTITUTIONAL.)

IN THE MATTER OF:

Government of NCT of Delhi

...Petitioner

Versus

Union of India & Anr.

... Respondents

AND WITH

I. A. No. _____ OF 2023

An application for Stay

FOR PAPER-BOOK INDEX

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Advocate for the Petitioners: Mr. Shadan Farasat

SYNOPSIS

The present Writ Petition challenges the constitutionality of the Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023 (**‘Impugned Ordinance’**) promulgated on 19.05.2023. The Impugned Ordinance wrests control over civil servants serving in the Government of NCT of Delhi (**‘GNCTD’**), from the GNCTD to the unelected Lieutenant Governor (**‘LG’**). It does so without seeking to amend the Constitution of India, in particular Article 239AA of the Constitution, from which flows the substantive requirement that power and control in respect of Services be vested in the elected government.

It is not in contention that Article 239AA confers legislative competence over ‘Services’ concurrently on the Delhi Assembly as also the Parliament. However, it is a fundamental precept of the Constitution that the question of competence is distinct from the validity of legislation passed in exercise of such competence. The Impugned Ordinance, by violating the substantive requirements of Article 239AA of the Constitution as interpreted by two Constitution Benches of this Hon’ble Court, fails to be a valid exercise of competence. Particularly, the Impugned Ordinance is an unconstitutional exercise of executive fiat that:

- i.)** violates the scheme of federal, democratic governance entrenched for the NCTD in Article 239AA;
- ii.)** is manifestly arbitrary;
- iii.)** legislatively overrules/reviews a Constitution Bench judgement of this Hon’ble Court dated 11.05.2023 in Civil Appeal No. 2357/2017 (*GNCTD v. Union of India*) (**‘2023**

Constitution Bench judgment’) without altering its basis, which was that accountability of civil servants to the elected arm of the government, and the elected government’s control over the civil service, is a substantive mandate of the model of governance envisaged by the Constitution, including for the NCT of Delhi under Article 239AA;

- iv.) is an impermissible and unconstitutional abuse of ordinance-making powers under Article 123 of the Constitution.

The present Petition challenges the constitutionality of the Impugned Ordinance, including *inter alia* the following provisions introduced or amended by it:

- (i.) Section 3A of the Government of National Capital Territory of Delhi Act 1991 (‘GNCTD Act’) stipulating that Entry 41 of State List shall no more be available to Delhi’s Legislative Assembly (ref Section 3, Impugned Ordinance);
- (ii.) Sections 45E to 45H of the GNCTD Act which, *inter alia*, vest control over civil servants working for GNCTD with the LG, and constitute the National Capital Civil Service Authority (‘**Authority**’) for making recommendations to the LG on matters including their transfers, postings, and disciplining (ref Section 5, Impugned Ordinance);
- (iii.) Section 41 of the GNCTD Act, insofar as it provides for the LG’s ‘sole discretion’ in matters relating to Part IVA of the GNCTD Act (ref Section 4, Impugned Ordinance);
- (iv.) Section 45D of the GNCTD Act, stipulating that, notwithstanding any other law, any “authority, board, commission, or any statutory body” in the NCTD and all its

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members shall be constituted/appointed by the President (ref Section 5, Impugned Ordinance);

(v.) Sections 45K(3) and 45K(5) of the GNCTD Act, which allow bureaucrats and the LG to override decisions taken by the Council of Ministers and Ministers-in-charge (ref Section 5, Impugned Ordinance).

(vi.) Section 45K(1) of the GNCTD Act which, by conferring on bureaucrats the authority to finalise cabinet notes, allow them to block any proposal before it is considered by the Council of Ministers (ref Section 5, Impugned Ordinance).

The Impugned Ordinance destroys the scheme of federal, Westminster-style democratic governance that is constitutionally guaranteed for NCTD in Article 239AA

Article 239AA of the Constitution is a *sui generis* provision in that it constitutionally entrenches for NCTD a Westminster-style democracy, to fulfill the popular, regional, and democratic aspirations of the people of Delhi. The Impugned Ordinance directly violates this scheme of federal, democratic governance incorporated in Article 239AA and, specifically, the principle of ‘collective responsibility’ incorporated in Article 239AA(6).

In Westminster-style democracies, the elected government, i.e. the Council of Ministers, is collectively responsible to the legislature, and through it, to the people themselves. However, the elected government, in turn, administers its policies through the civil service, i.e. the ‘permanent executive’ (*Paras 102-103, 2023 Constitution Bench judgment*). Therefore, a democratically accountable government requires a ‘triple chain of accountability’ – from the civil service to the elected arm of the executive, from

the elected government to the legislature, and from the legislature to the people – without which the principle of ‘collective responsibility’ is compromised. This Hon’ble Court in the 2023 Constitution Bench judgment has extensively considered this principle in the federal set-up of NCTD:

“102. In a democracy, accountability lies with the people who are the ultimate sovereign. The parliamentary form of government adopted in India essentially requires that Parliament and the government, consisting of elected representatives, to be accountable to the people. The Cabinet consisting of elected representatives is collectively responsible for the proper administration of the country and is answerable to the legislature for its actions... The government is responsible for the decisions and policies of each of the ministers and of their departments. This creates a multi-linked chain of accountability, where the legislature is accountable to the people who elected them, and the government is collectively responsible to the legislature... Collective responsibility is an important component of parliamentary democracies.”

103. ...The day-to-day decisions of the Council of Ministers are to be implemented by a neutral civil service, under the administrative control of the ministers. In order to ensure that the functioning of the government reflects the preferences of the elected ministers, and through them the will of the people, it is essential to scrutinize the link of accountability between the civil service professionals and the elected ministers who oversee them..

106 ...Under the Westminster parliamentary democracy, civil services constitute an important component of a triple chain of command that ensures democratic accountability. The triple chain of command is as follows:

- a. Civil service officers are accountable to Ministers;
- b. Ministers are accountable to Parliament/Legislature; and
- c. Parliament/Legislature is accountable to the electorate.

107. An unaccountable and a non-responsive civil service may pose a serious problem of governance in a democracy. It creates a possibility that the permanent executive, consisting of unelected civil service officers, who play a decisive role in the implementation of government policy, may act in ways that disregard the will of the electorate.

108. ...In a federal polity, a fundamental question which arises is which would be the more appropriate authority to whom the civil service officers would be accountable...

110. In a democratic form of Government, the real power of administration must reside in the elected arm of the State, subject to the confines of the Constitution. A constitutionally entrenched and democratically elected government needs to have control over its administration...If a democratically elected government is not provided with the power to control the officers posted within its domain, then the principle underlying the triple-chain of collective responsibility would become redundant. That is to say, if the government is not able to control and hold to account the officers posted in its service, then its responsibility towards the legislature as well as the public is diluted. The principle of collective responsibility extends to the responsibility of officers, who in turn report to the ministers. If the officers stop reporting to the ministers or do not abide by their directions, the entire principle of collective responsibility is affected...

111... Therefore...GNCTD ought to have control over “services”, subject to exclusion of subjects which are out of its legislative domain.”

(2023 Constitution Bench judgment)

Therefore, the principle of collective responsibility in a democracy - incorporated in Article 239AA(6) - requires that the elected government be vested with control over officials posted in its domain. In the federal context, this would require that such control be vested in the regional government – i.e. the GNCTD under Article 239AA – for matters in its domain. This essential feature was secured for the GNCTD by this Hon’ble Court’s 2023 Constitution Bench judgment, and is now sought to be undone by the Impugned Ordinance as follows:

- a. Sections 41 and 45H of the GNCTD Act 1991 vest ‘sole discretion’ with the LG over, *inter alia*, transfers, postings, and disciplining of civil servants posted in the GNCTD’s domain (ref Sections 4 and 5 of the Impugned Ordinance).
- b. Sections 45E and 45H constitute the Authority, comprising the Chief Minister as Chairperson along with two senior bureaucrats, and tasked *inter alia* with making ‘recommendations’ to the LG on the above matters. It is specifically provided that, in case of any difference of opinion, the LG’s decision is final.
- c. Moreover, even as a recommending body, the Authority is designed such that the head of the elected government, the Chief Minister of Delhi, presides over his own minority. The two bureaucrats can outvote him (ref Section 45E(3)), hold meetings and make recommendations in his absence (ref Section 45F(3)), and even unilaterally delegate the making of recommendations to another body, surrendering even the pretense of democratic involvement (ref Provisos in Section 45H(1)-(3)).

- d. Finally, Section 3A stipulates that Entry 41 of the State List (“Services”) shall no more be available to Delhi’s Legislative Assembly (ref Section 3 of the Impugned Ordinance).

The Impugned Ordinance, thus, completely sidelines the elected Government, i.e. the GNCTD, from control over its civil service. This was first attempted by the Respondents in 2015, vide MHA Notification No. SO 1368 (E), the basis of which has already been declared unconstitutional in the 2023 Constitution Bench judgement of this Hon’ble Court. The Impugned Ordinance clearly seeks to revert the situation to what the 2015 Notification had sought to install, in complete disregard for this Hon’ble Court’s authoritative view. Though the Impugned Ordinance feigns a degree of democratic involvement by making stray references to the Chief Minister, it in fact relegates the Chief Minister to being a minority-voice even in the Authority tasked with making non-binding ‘recommendations’. The Impugned Ordinance shows contempt for elected assembly and elected government while making a pretense of their involvement through the Chief Minister.

Article 239AA incorporates a rich, federal democracy in Delhi: one in which the regional and national aspirations of the electorate can each find distinct voices in distinct governments (**Para 74-75, 2023 Constitution Bench**). The Impugned Ordinance, by seizing control over civil servants posted in the GNCTD and vesting it in the hands of the Union’s nominee, in effect attempts to hand over the administration of the GNCTD to the Union of India. In doing so, the Impugned Ordinance erodes not only the premise of democratic governance but also the

regional will of Delhi's electorate. The Impugned Ordinance violates Article 239AA on both counts.

A democratic and federal form of government, so also the non-retrogression of such forms, are basic features of our Constitution. This attempt to withdraw and erode the democratic, federal voice guaranteed to the people of Delhi after over 30 years of its recognition, could not have been done via constitutional amendment, let alone through the Impugned Ordinance.

In addition, Article 239AA(3)(a) stipulates that the Legislative Assembly shall have competence over all matters in the State List, except Entries 1, 2, and 18. It has been categorically held by this Hon'ble Court that no State List entry, other than these, shall stand excluded from the Delhi Assembly's competence. (**Para 164, 2023 Constitution Bench judgment**). By removing Entry 41 of the State List from the Delhi Assembly's competence, in addition to the entries enumerated in Article 239AA, Section 3A of the GNCTD Act brings about a constitutional amendment by executive fiat and is therefore liable to be struck down. It cannot be permissible for the Parliament to exercise its 'concurrent' competence over Entry 41 to change the nature of that entry from 'concurrent' to 'exclusive'.

Lastly, under the scheme of Article 239AA, the LG enjoys discretion only in matters falling outside the GNCTD's legislative and executive domain, and in all other matters (including 'Services') is bound by the aid and advice of the Council of Ministers. In the latter category, the LG enjoys no discretion – a feature essential to preserving the GNCTD's federal domain – and can only refer a difference of opinion to the President. Therefore,

the Constitution does not envisage any overlap between the areas in which LG acts *eo nomine* (i.e. the areas outside GNCTD's domain) and the areas in which the LG is bound by aid and advice (i.e. the areas within GNCTD's domain). The Impugned Ordinance, by stipulating that the LG's decision in respect of transfers, postings, and disciplining of civil servants, shall be final in case of any 'difference in opinion', collapses this dual scheme under Article 239AA. If this is upheld, every function of the LG to be carried out on aid and advice, can be reduced to *eo nomine* powers of an unelected official, threatening the scheme of Article 239AA.

Therefore, the Impugned Ordinance, in so far as it completely upends the scheme of democratic, federal governance in Article 239AA, is not a valid exercise of the Parliament's concurrent competence over Entry 41 under Article 239AAA(3)(b). Neither is it in exercise of "supplementary" law-making powers under Article 239AA(7) which is meant for "giving effect to" the provisions of Article 239AA and not to damage or destroy the scheme of democratic, federated governance envisaged in Article 239AA.

The Impugned Ordinance impermissibly 'overrules' the Constitution Bench judgment of this Hon'ble Court in Civil Appeal No. 2357/2017

It is settled law that it is impermissible for the legislature to simply overrule a decision of this Hon'ble Court – it is only permissible for it to remove or alter the basis of a judicial decision, such that the decision would not have been rendered in that altered background. (*Indian Aluminium Company Co. v. State of Kerala*,

(1996) 7 SCC 637, *Baharul Islam v. Indian Medical Association*, 2023 SCC OnLine SC 79).

In direct violation of this settled position of law, the Impugned Ordinance seeks to reverse the 2023 Constitution Bench judgment of this Hon'ble Court, without attempting to alter in any way its basis, i.e. Article 239AA of the Constitution. In its decision, this Hon'ble Court has considered the issue of 'Services' in the NCTD, and upon an interpretation of the text and scheme of Article 239AA, held as follows:

- i.** That the Parliament and the Delhi Assembly enjoy concurrent legislative competence over Entry 41 ('Services'), while executive powers over it lie exclusively with the GNCTD subject to valid parliamentary law (**paras 78-85, 2023 Constitution Bench**);
- ii.** That, regardless of the allocation of competence between the GNCTD and the Union, a valid exercise of such competence would have to comply with the substantive requirements of Article 239AA of the Constitution, particularly, the principles of collective responsibility, Westminster-style democracy, and federalism. These requirements, in turn, require control over civil servants posted in the GNCTD's domain to be vested in the elected arm of the GNCTD (**paras 98-111, 2023 Constitution Bench**).

It cannot be gainsaid that existence of competence under Article 239AA is a distinct issue from its exercise in a manner so as to not violate Article 239AA itself. This Hon'ble Court has expounded on the position of 'Services' in the NCTD on both these aspects: *first*, the allocation of legislative/executive competence

over ‘Services’ between the GNCTD and the Union, and *second*, the substantive requirements for a law to constitute a valid exercise of such competence under Article 239AA. This Hon’ble Court’s ruling on each of these issues was based on a reading of, not merely the GNCTD Act, but the text and scheme of Article 239AA of the Constitution itself.

Thus, it has been clearly held by this Hon’ble Court that Article 239AA of the Constitution prescribes not only a distribution of powers between the Union and the GNCTD, but also substantive limits upon the exercise of legislative powers with respect to ‘Services’. Thus, even though the Parliament is competent to enact laws on all subject-matters in respect of NCTD, its power is not plenary, but is rather constrained by substantive limitations imposed by the text and principles of Article 239AA itself that have been expounded upon by two Constitution Benches of this Hon’ble Court.

The Impugned Ordinance attempts to reverse this Hon’ble Court’s ruling on each of these two aspects by simply amending the GNCTD Act, without amending the ruling’s basis, i.e. the Constitution itself:

- i.** Section 3A of the GNCTD Act removes Entry 41 (‘Services’) from the Delhi Assembly’s competence, plainly reversing this Hon’ble Court’s ruling that the Parliament and Delhi Assembly enjoy concurrent competence over Entry 41 in Article 239AA’s scheme,
- ii.** Sections 41 and 45H of the GNCTD Act, by sidelining the elected GNCTD in control of its own civil servants, reverse the decision of this Hon’ble Court wherein it was held that

the vesting of such control in the GNCTD was a substantive constitutional requirement under Article 239AA.

In conclusion, the Impugned Ordinance does not – indeed, could not – amend or alter the basis of the Hon’ble Court’s ruling, i.e. Article 239AA of the Constitution and the allied principles of democratic governance, federalism, and collective responsibility. Thus, in so far as the Impugned Ordinance reverses this Hon’ble Court’s decision, it amounts to an impermissible ‘direct overruling’ or ‘review’ and is liable to be struck down.

The Impugned Ordinance is manifestly arbitrary in its design

Since this Hon’ble Court’s decision in *Shayara Bano v. Union of India* (2017) 9 SCC 1, it is settled law that even legislations may be held to be unconstitutional on the anvil of manifest arbitrariness. This position has been reiterated in several decisions of this Hon’ble Court including *Union of India v. Ganpati Dealcom* (2023) 3 SCC 315 (para 53), *Joseph Shine v. Union of India* (2019) 3 SCC 39 (paras 26, 65), *Hindustan Construction v. Union of India*, (2020) 17 SCC 324 (paras 60-62).

Thus, a legislation may be held to be unconstitutional under Article 14 if found to be “*done capriciously, irrationally and/or without adequate determining principle...when something is done which is excessive and disproportionate...*” or if found to be “*not fair, not reasonable, discriminatory, not transparent, capricious, biased... and not in pursuit...equitable treatment...*” (**paras 95, 101, *Shayara Bano***). It is submitted that the Impugned Ordinance, particularly Sections 41, 45D, 45E, 45K, and 45H, fails on this count as well.

- i) Sections 41, 45E, 45H (concerning control over ‘Services’) are manifestly arbitrary

This Hon’ble Court has noted that the civil service is the “soul” of any administration without which governance itself is impossible, democratic or otherwise (**Para 98-101, 2023 Constitution Bench**). By removing the civil service’s accountability to the government whose policies it is tasked with implementing, the Impugned Ordinance denudes the structure that holds up governance itself. By breaking the link that keeps the civil service accountable for its key role in governance, i.e. the efficient, unbiased, and timely administration of the government’s policies, the Impugned Ordinance erodes the civil service’s incentives for due and fair performance of their role. In the words of this Hon’ble Court:

“A democratically elected government can perform, only when there is an awareness on the part of officers of the consequences which may ensue if they do not perform. If the officers feel that they are insulated from the control of the elected government which they are serving, then they become unaccountable or may not show commitment towards their performance.” (Para 110, 2023 Constitution Bench judgment)

Thus, in so far as the Impugned Ordinance, vide Sections 41, 45E and 45H, seeks to divorce control of the GNCTD from the civil service posted in its domain, it is evidently capricious and without determining principle - it suffers from a lack of any plausible and legitimate objective and can only be explained as an exercise in whimsical politics at the expense of Delhi’s electorate.

ii.) Section 45K (allowing bureaucrats and LG to override decisions of the Council of Ministers and Ministers-in-charge, and empowering bureaucrats to block Cabinet notes) is manifestly arbitrary

Section 45K confers on civil servants within the GNCTD wide-ranging discretion to stall, disobey, and contradict the decisions taken by the Council of Ministers and Ministers-in-charge of GNCTD. By vesting control over civil servants in the hands of the Union, and then conferring wide discretionary powers on civil servants to override the GNCTD, the Impugned Ordinance in effect and design allows the Union to take over the governance of Delhi.

First, Section 45K(1) confers on departmental Secretaries the authority to prepare, authenticate, and effectively finalise all Cabinet notes before they are forwarded for the consideration of the Council of Ministers. This authority, heretofore, vested with the Minister-in-charge. By vesting it in bureaucrats instead, the Impugned Ordinance allows civil servants under the Union of India's control to simply block the GNCTD's agenda before it can even be considered and decided on by the elected government, and is therefore manifestly arbitrary.

Second, in case the first hurdle is cleared, Sections 45K(3) and 45K(5) allow bureaucrats, particularly the Chief Secretary and concerned Secretaries of Departments, wide-ranging authority to override or suspend decisions taken by the Council of Ministers or the Minister-in-charge, on the pretext of a disagreement as to their 'legality'. Further, Section 45K(5), in the event of such a

disagreement, requires the matter to be sent to the LG for “taking a decision thereon.”

The impugned provisions provide that the moment the Chief Secretary/Secretary to the Council of Ministers registers a personal disagreement on the question of legality, even decisions taken by the Council of Ministers are simply brought to a halt. Notably though, these decisions are vetted by legal experts in the legal departments of Ministries and the Law Ministry, where necessary. This has effectively elevated the personal opinions of the Secretaries above decisions taken by the elected Government, and granted the Secretaries a *carte-blanche* to disobey directions from Ministers and stall Council proposals by sitting in adjudication of their legality. This indeed, is precisely how the provision has been working in practice even in the short span of time that it has been in force, and instances of misuse of this power are enclosed with the present Petition.

The impugned provision further requires that once such a disagreement arises on the question of legality, the matter be referred to the LG for his “decision thereon”. Under the scheme of Article 239AA, mere personal disagreement about the legality of particular decisions within the GNCTD’s domain, cannot confer independent executive power on either bureaucrats or the LG. The Impugned Ordinance does precisely – it attempts to elevate the LG, and through his office, the Union of India, to the status of a court or a judicial tribunal, conferring on them powers of adjudication pending which the elected Government’s decisions may be kept in abeyance.

By allowing bureaucrats and the LG to adjudicate the legality of the elected Government's decisions and take executive actions on that basis, the Impugned Ordinance completely collapses the scheme of separation of powers and of governance under Article 239AA. Since the decisions are vetted by legal experts within each department/ ministry where needed, the impugned provision only serves to further stall governance on the say-so of the Union of India, through the LG/bureaucrats, and is manifestly arbitrary.

i) Section 45D (concerning control over independent bodies, commissions, etc.) is manifestly arbitrary

Section 45D of the GNCTD Act, in stipulating that *all* statutory bodies, commissions, boards, and authorities in the NCTD be constituted by and their members appointed by the President, suffers from the same infirmity and completes the deliberate design of the Impugned Ordinance to allow the Union of India to take over governance in Delhi.

There are over 50 bodies working for the people of Delhi that would be hit by this one blanket provision, and the control over which will pass from the people of Delhi to the Union of India. These bodies work in sectors ranging from transportation (Delhi Transport Corporation), water (Delhi Jal Board), industry (Delhi State Industrial Development Corporation), women's and children's rights (Delhi Women Commission, Delhi Commission for Protection of Child Rights), and electricity (Delhi Electricity Regulatory Commission), to name only a few. Notably, each of these bodies are specifically constituted for the needs of NCTD's electorate, affect their day-to-day lives, and are financed by the GNCTD. After the civil service, these bodies are the epicenter of

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administration in Delhi. The arbitrariness in the provision is writ large that while these bodies will continued to be financed by budgets approved by the Delhi Assembly and Delhi Government, the appointments will be made by the Central political executive.

Section 45D enacts a sweeping provision that passes *control* over each of these remaining structures of governance also to the Union of India, while retaining responsibilities (of financing as well as of popular accountability) with the GNCTD. In doing so, it completes the Impugned Ordinance's attempt to reduce the GNCTD to an 'administrative arm' of the Union, bound by delegated duties and accountable to the people, but lacking a commensurate measure of control and power. This Hon'ble Court in the 2023 Constitution Bench judgment has noted that Dr. B.R. Ambedkar had warned against this possibility:

*“Dual Polity under the proposed Constitution will consist of the Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution... **the Indian Constitution proposed in the Draft Constitution is not a league of States nor are the States administrative units or agencies of the Union Government.**”* (Constituent Assembly Debates, Vol. 7 at p. 33 (4 November 1948))

Despite the tectonic shift this provision effects in NCTD's governance, it has been passed with a blanket *non-obstante* clause, without any application of mind towards reconciling such a transparent power-grab with the unique statutory schemes and purposes of each body and its role in the governance of Delhi. By effectively passing control over all the remaining structures of governance in GNCTD also to the Union of India through one

blanket provision, without further application of mind on the specific bodies so affected, Section 45D fails to in any way fulfill the Impugned Ordinance's stated objective, i.e. to **balance** the interests of the people of NCTD with national interests. Indeed, by separating the government which is answerable from the government which is in control, Section 45D does not only violate the federal, democratic scheme of Article 239AA. It also violates Article 14 on account of being manifestly arbitrary, lacking any discernible principle or any application of mind beyond a naked usurpation of power.

In any case, and without prejudice to the arguments above, the Impugned Ordinance is an unconstitutional abuse of ordinance-making powers under Article 123 of the Constitution

The Impugned Ordinance represents a textbook instance of abuse of ordinance-making power under Article 123 for enacting anti-democratic legislations without the guardrails of popular deliberations in the House of the People and the Council of States. Indeed, a 7-judge Bench of this Hon'ble Supreme Court in *Krishna Kumar Singh v. State of Bihar*, (2017) 3 SCC 1, has held that ordinance-making power under the Constitution of India may only be exercised upon the **objective satisfaction** that circumstances exist that render **immediate** action **necessary** (as opposed to merely 'desirable').

In the present instance, it is evident that there was no urgency or necessity to promulgate the Impugned Ordinance, given that the *status quo* it seeks to reverse was declared by this Hon'ble Court after extensively deliberating over not only the requirements of democratic governance under Article 239AA, but also the Union

of India's/Respondents' interests in the national capital territory. In other words, the Respondents' immediate interests were built into and fully considered in the *status quo* put in place by this Hon'ble Court. In such an event, there can be no 'urgency' or 'necessity' in overturning it.

Further, the promulgation of the present Ordinance is an apparent attempt to circumvent democratic and judicial deliberations. The Cabinet Resolution approving the promulgation was passed on 17.05.2023, a mere 6 days after the ruling of the 2023 Constitution Bench of this Hon'ble Court. Furthermore, despite the Cabinet approval on 17.05.2023, the Ordinance was promulgated only on 19.05.2023, and became available in the public domain late in the evening of 19.05.2023, i.e. after the Hon'ble Court rose for vacations. The unseemly hurry in reversing a ruling of this Hon'ble Court via Ordinance, and the timing of its promulgation, reveals a conscious intent to avoid democratic as well judicial deliberations that could safeguard the interests of the people of Delhi.

For all the reasons as aforesaid, the Impugned Ordinance deserves to be set aside for violating Article 239AA of the Constitution, Article 14's guarantee against manifest arbitrariness of State action, and for attempting to sit in review of this Hon'ble Court's judgment. Hence, the present writ petition.

LIST OF DATES & EVENTS

DATES

EVENTS

1991

That after due deliberation, Parliament, in exercise of its constituent power, amended the

Constitution by the Constitution (Sixty-ninth Amendment) Act in the year 1991 and inserted Articles 239-AA and 239-AB in the Constitution (w.e.f. 01.02.1992). The Government of National Capital Territory of Delhi Act, 1991 was also passed for “supplementing” and “giving effect to” the provisions of Article 239AA.

21.05.2015 Ministry of Home Affairs, Union of India issued a notification bearing number SO 1368 (E) stipulating that, Entry 41 of the State List (‘Services’) shall also, in addition to the entries mentioned in Article 239AA, stand excluded from the Delhi Legislative Assembly’s competence.

04.08.2016 The Hon’ble High Court of Delhi, disposing of a batch of writ petitions, upheld the validity of the MHA notification dated 21.05.2015.

15.02.2017 In Civil Appeal No. 2357/2017, instituted against the judgment of the Hon’ble High Court dated 4.08.2016, a 2-judge bench of this Hon’ble Court referred the issue to a Constitution Bench, stating that it involved substantial questions of law about the interpretation of Article 239AA.

04.07.2018 The Constitution Bench of this Hon’ble Court pronounced its judgment on the reference dated 15.02.2017, dealing with the constitutional status of the NCTD and the modalities of its administration. This Hon’ble Court categorically

held, *inter alia*, that **only** Entries 1, 2, and 18 from the State List were excluded from the Delhi Legislative Assembly's competence to legislate. The principles of representative democracy and federalism underlined the entire judgment and the interpretation given by the Constitution Bench to Article 239AA. The appeals were directed to be listed before a regular bench to decide the specific issues in accordance with the Constitution Bench's exposition of the scheme under Article 239AA.

14.02.2019 A 2-judge Bench of this Hon'ble Court, while deciding the specific issues arising in Civil Appeal No. 2357/2017, differed on whether "services" are excluded in view of Article 239AA from the legislative and executive domain of the GNCTD in light of the principles laid down by the Constitution Bench on 4.07.2018. Accordingly, the matter was referred to a 3-judge bench of this Hon'ble Court.

06.05.2022 A 3-judge bench of this Hon'ble Court further referred Civil Appeal No. 2357/2017 to a Constitution Bench, holding that the specific question of the scope of legislative and executive powers of the GNCTD and the Union relating to "services" required further substantial interpretation of the Constitution.

11.05.2023 The Constitution Bench of this Hon'ble Court decisively resolved the issue of 'Services' in the

scheme of Article 239AA, holding that Entry 41 (“Services”) was within the legislative and executive powers of the GNCTD, *and* that the principles of cooperative federalism, collective responsibility, and Westminster-style democratic governance required that control over transfers, postings, and disciplining of civil servants be vested in the concerned elected Government.

17.05.2023 The Cabinet of Ministers, Union of India approved the passage of the Impugned Ordinance.

19.05.2023 The Impugned Ordinance, seeking to amend the Government of National Capital Territory of Delhi Act, 1991 and usurp control over “Services” from the GNCTD, was promulgated by the President of India, and came into immediate effect.

The Impugned Ordinance was gazetted and notified on the evening of 19.05.2023, after the regular benches of this Hon’ble Court had ceased to function on account of vacation.

30.06.2023 Hence, the present writ petition.

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

WRIT PETITION (CIVIL) No. _____ OF 2023

(A Petition with affidavit under Article 32 of the Constitution of India seeking a direction, order, or appropriate writ declaring and quashing the Government of National Capital Territory of Delhi (Amendment) Ordinance, 2023 as unconstitutional.)

In the matter of:

GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI, through the Minister of Services, Shri Saurabh Bharadwaj, having office at Delhi Secretariat Complex, 7th Level, B - Wing & 5th Level, A - Wing, I. P. Estate, New Delhi – 110002 ... **PETITIONER**

VERSUS

1. **UNION OF INDIA**, Ministry of Home Affairs, through its secretary, address North Block, New Delhi 110001
2. **MINISTRY OF LAW AND JUSTICE**, through its secretary, address 4th Floor, A-Wing, Shashtri Bhavan, New Delhi 110001 ... **RESPONDENTS**

(A PETITION WITH AFFIDAVIT UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA SEEKING A DIRECTION, ORDER, OR APPROPRIATE WRIT DECLARING AND QUASHING THE GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI (AMENDMENT) ORDINANCE, 2023 AS UNCONSTITUTIONAL.)

To,

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

The humble Petition of

the Petitioners above named

Most Respectfully Showeth:

1. The present Petition seeks the issuance of a direction, order, or appropriate writ declaring and quashing the Government of National Capital Territory of Delhi (Amendment) Ordinance 2023 ('Impugned Ordinance') promulgated on 19.05.2023 by the President of India, as unconstitutional. A true copy of the Government of National Capital Territory of Delhi (Amendment) Ordinance promulgated by the President of India on 19.05.2023 is annexed herewith as **Annexure P-1** at pages 37 to 46.
2. The Impugned Ordinance is an unconstitutional exercise of executive fiat, that wrests control over civil servants serving in the Government of NCT of Delhi ('GNCTD'), from the GNCTD to the unelected Lieutenant Governor ('LG').
3. A Constitution Bench of this Hon'ble Court, vide its judgement in Civil Appeal No. 2357/2017 dated 11.05.2023 ('2023 Constitution Bench') had categorically vested such control in the hands of the relevant elected Government, that is the Delhi Government, upon an interpretation of the constitutional text as well as its basic features such as Westminster-style democracy, cooperative federalism, and collective responsibility. The Impugned Ordinance, coming days after this Hon'ble Court's judgement, is a plain attempt to override this Hon'ble Court and the basic structure of the Constitution itself vide executive fiat. A true copy of the judgement dated 11.05.2023 passed by the Constitution Bench of this Hon'ble Court in Civil Appeal No. 2357/2017

(*GNCTD v. Union of India & Ors.*), is annexed herewith as **Annexure P-2** at pages 47 to 151.

4. The arbitrary and capricious manner in which the Respondents have exercised their Ordinance-making powers is in clear violation of Article 14 of the Constitution and simultaneously implicates significant questions of public interest, both of which make the present petition a fit one for the exercise of this Hon'ble Court's jurisdiction under Article 32 of the Constitution of India (*See: Union of India v. Sriharan (2016) 7 SCC 1*).

5. FACTS LEADING TO THE FILING OF THE PETITION

5.1 That after due deliberation, Parliament, in exercise of its constituent power, amended the Constitution by the Constitution (Sixty-ninth Amendment) Act in the year 1991 and inserted Articles 239-AA and 239-AB in the Constitution. Article 239AA of the Constitution of India is extracted below:

“Special provisions with respect to Delhi. — (1) As from the date of commencement of the Constitution (Sixty-ninth Amendment) Act, 1991, the Union territory of Delhi shall be called the National Capital Territory of Delhi (hereafter in this Part referred to as the National Capital Territory) and the administrator thereof appointed under article 239 shall be designated as the Lieutenant Governor.

(2)(a) There shall be a Legislative Assembly for the National Capital Territory and the seats in such Assembly shall be filled by members chosen by direct election from territorial constituencies in the National Capital Territory.

(b) The total number of seats in the Legislative Assembly, the number of seats reserved for Scheduled Castes, the division of the National Capital Territory into territorial constituencies (including the basis for such division) and all

other matters relating to the functioning of the Legislative Assembly shall be regulated by law made by Parliament.

(c) The provisions of articles 324 to 327 and 329 shall apply in relation to the National Capital Territory, the Legislative Assembly of the National Capital Territory and the members thereof as they apply, in relation to a State, the Legislative Assembly of a State and the members thereof respectively; and any reference in articles 326 and 329 to “appropriate Legislature” shall be deemed to be a reference to Parliament.

(3)(a) Subject to the provisions of this Constitution, the Legislative Assembly shall have power to make laws for the whole or any part of the National Capital Territory with respect to any of the matters enumerated in the State List or in the Concurrent List in so far as any such matter is applicable to Union territories except matters with respect to Entries 1, 2 and 18 of the State List and Entries 64, 65 and 66 of that List in so far as they relate to the said Entries 1, 2 and 18.

(b) Nothing in sub-clause (a) shall derogate from the powers of Parliament under this Constitution to make laws with respect to any matter for a Union territory or any part thereof.

(c) If any provision of a law made by the Legislative Assembly with respect to any matter is repugnant to any provision of a law made by Parliament with respect to that matter; whether passed before or after the law made by the Legislative Assembly, or of an earlier law, other than a law made by the Legislative Assembly, then, in either case, the law made by Parliament, or, as the case may be, such earlier law, shall prevail and the law made by the Legislative Assembly shall, to the extent of the repugnancy, be void:

Provided that if any such law made by the Legislative Assembly has been reserved for the consideration of the President and has received his assent, such law shall prevail in the National Capital Territory:

Provided further that nothing in this sub-clause shall prevent Parliament from enacting at any time any law with

respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislative Assembly.

(4) There shall be a Council of Ministers consisting of not more than ten per cent. of the total number of members in the Legislative Assembly, with the Chief Minister at the head to aid and advise the Lieutenant Governor in the exercise of his functions in relation to matters with respect to which the Legislative Assembly has power to make laws, except in so far as he is, by or under any law, required to act in his discretion:

Provided that in the case of difference of opinion between the Lieutenant Governor and his Ministers on any matter, the Lieutenant Governor shall refer it to the President for decision and act according to the decision given thereon by the President and pending such decision it shall be competent for the Lieutenant Governor in any case where the matter, in his opinion, is so urgent that it is necessary for him to take immediate action, to take such action or to give such direction in the matter as he deems necessary.

(5) The Chief Minister shall be appointed by the President and other Ministers shall be appointed by the President on the advice of the Chief Minister and the Ministers shall hold office during the pleasure of the President.

(6) The Council of Ministers shall be collectively responsible to the Legislative Assembly.

(7)(a) Parliament may, by law, make provisions for **giving effect to, or supplementing the provisions** contained in the foregoing clauses and for all matters incidental or consequential thereto.

(b) Any such law as is referred to in sub-clause (a) shall not be deemed to be an amendment of this Constitution for the purposes of article 368 notwithstanding that it contains any provision which amends or has the effect of amending, this Constitution.

(8) The provisions of article 239B shall, so far as may be, apply in relation to the National Capital Territory, the Lieutenant Governor and the Legislative Assembly, as they

apply in relation to the Union territory of Puducherry, the administrator and its Legislature, respectively; and any reference in that article to “clause (1) of article 239A” shall be deemed to be a reference to this article or article 239AB, as the case may be.”

- 5.2** That on 21.05.2015, Respondent No. 1 (MHA) issued a notification bearing number SO 1368 (E) (‘2015 Notification’) stipulating that Entry 41 of the State List, in addition to the entries mentioned in Article 239AA, shall stand excluded from the Delhi Government’s legislative and executive domain. A true copy of the notification dated 21.05.2015 of the Ministry of Home Affairs, Union of India bearing number SO 1368 (E), is annexed herewith as **Annexure P-3** at pages 152 to 155.
- 5.3** That the Petitioners approached this Hon’ble Supreme Court in Civil Appeal No. 2357/2017 impugning the judgment of the Hon’ble High Court of Delhi upholding the validity of the 2015 Notification.
- 5.4** That the Civil Appeal No. 2357/2017 was referred to a Constitution Bench of this Hon’ble Court which pronounced its judgement on 4.07.2018 (‘2018 Constitution Bench’), dealing with the constitutional status of the NCTD and the modalities of its administration. The principles of representative democracy and federalism underlined the judgment, which finally held that **only** Entries 1, 2, and 18 from the State List were excluded from the Delhi Government’s legislative and executive domain. The appeals were further directed to be listed before a regular bench for

adjudication on the specific question of the validity of the 2015 Notification.

5.5 However, the question of ‘Services’ in the scheme of Article 239AA – including, the vesting of control over transfers, postings, and appointments of civil servants – was again referred to a Constitution Bench on 6.05.2022.

5.6 Finally, on 11.05.2023, a Constitution Bench of this Hon’ble Court led by Dr. DY Chandrachud, CJI., pronounced a judgement in Civil Appeal No. 2357/2017 decisively resolving the issue in the following terms:

- i.** That legislative competence with respect to Entry 41 of the State List (“Services”) lay concurrently with both the Delhi Legislative Assembly and the Parliament;
- ii.** That executive powers with respect to Entry 41 (“Services”) lay exclusively with the Delhi Government, subject to valid parliamentary law;
- iii.** That, regardless of the allocation of competence between the GNCTD and the Union, a valid exercise of such competence would have to comply with the substantive requirements of Article 239AA of the Constitution, particularly, the principles of collective responsibility, Westminster-style democracy, and federalism. These requirements, in turn, require control over civil servants posted in the GNCTD’s domain to be vested in the GNCTD (**paras 98-111, 2023 Constitution Bench**).

5.7 Days after the 2023 Constitution Bench judgment of this Hon’ble Court declared the basis of the 2015 Notification to

be unconstitutional, the Impugned Ordinance again seeks to revert the situation to what the 2015 Notification had sought to install, in complete disregard for this Hon'ble Court's authoritative view.

5.8 In light of these facts, the Petitioner has approached this Hon'ble Court on the following grounds:

6. GROUNDS

THAT SECTION 3A OF GNCTD ACT IS OUTSIDE OF THE PARLIAMENT'S LEGISLATIVE COMPETENCE AND, THEREFORE, VOID UNDER ARTICLE 123(3)

6.1 That Section 3A of the GNCTD Act (introduced vide Section 3 of the Impugned Ordinance) stipulates that "*the Legislative Assembly shall have power to make laws as per Article 239AA except with respect to any matter enumerated in Entry 41 of List II of the Seventh Schedule of the Constitution of India or any matter connected therewith or incidental thereto.*"

6.2 That the 2023 Constitution Bench of this Hon'ble Court had categorically stated that Entry 41 of the State List fell within the concurrent legislative competence of the Parliament and the Legislative Assembly in the scheme laid down in Article 239AA. (**Para 164, 2023 Constitution Bench**).

6.3 That Section 3A of the GNCTD Act, while purporting to be an exercise of the Parliament's concurrent legislative competence over Entry 41, stipulates that the Legislative Assembly of Delhi shall not have power to make laws with respect to matters enumerated in Entry 41 of List II in addition to the entries already excluded by the Constitution.

6.4 That no exercise of any **concurrent** power can act to withdraw that same power from the NCT's Legislative Assembly. Indeed, a law that would do that would destroy the 'concurrent' nature of the power itself, efface the constitutional scheme, and violate the "asymmetric federal" structure that this Hon'ble Court delineated in its 2023 judgment. As such, therefore, Section 3 of the Ordinance is beyond the legislative competence of the Parliament under List II.

6.5 That, therefore, though the Parliament retains concurrent legislative competence over Entry 41, Section 3 of the Impugned Ordinance is beyond the scope of that competence.

THAT THE IMPUGNED ORDINANCE IS NOT A CONSTITUTIONALLY VALID EXERCISE OF THE PARLIAMENT'S LEGISLATIVE COMPETENCE

The Impugned Ordinance destroys the scheme of federal, Westminster-style democratic governance that is constitutionally guaranteed for NCTD in Article 239AA

6.6 Article 239AA of the Constitution is a *sui generis* provision in that it constitutionally entrenches for NCTD a Westminster-style democracy, to fulfill the popular, regional aspirations of the people of Delhi.

6.7 The Impugned Ordinance directly violates this scheme of federal, democratic governance incorporated in Article 239AA and, specifically, the principle of 'collective responsibility' incorporated in Article 239AA(6).

6.8 That though the Parliament has concurrent legislative competence over Entry 41 in the State List in relation to

NCTD, the Impugned Ordinance is a patently unconstitutional and undemocratic exercise of such competence.

- 6.9** In Westminster-style democracies, the elected government, i.e. the Council of Ministers, is collectively responsible to the legislature, and through it, to the people themselves. However, the elected government, in turn, administers its policies through the civil service, i.e. the ‘permanent executive’ (*Paras 102-103, 2023 Constitution Bench judgment*).
- 6.10** Therefore, a democratically accountable government requires a ‘triple chain of accountability’ – from the civil service to the elected arm of the executive, from the elected government to the legislature, and from the legislature to the people – without which the principle of ‘collective responsibility’ is compromised.
- 6.11** This Hon’ble Court in the 2023 Constitution Bench judgment has extensively considered this principle in the federal set-up of NCTD:

“102. In a democracy, accountability lies with the people who are the ultimate sovereign. The parliamentary form of government adopted in India essentially requires that Parliament and the government, consisting of elected representatives, to be accountable to the people. The Cabinet consisting of elected representatives is collectively responsible for the proper administration of the country and is answerable to the legislature for its actions...The government is responsible for the decisions and policies of each of the ministers and of their departments. This creates a multi-linked chain of accountability, where the legislature is accountable to the people who elected them,

and the government is collectively responsible to the legislature... Collective responsibility is an important component of parliamentary democracies.”

103. ...The day-to-day decisions of the Council of Ministers are to be implemented by a neutral civil service, under the administrative control of the ministers. In order to ensure that the functioning of the government reflects the preferences of the elected ministers, and through them the will of the people, it is essential to scrutinize the link of accountability between the civil service professionals and the elected ministers who oversee them...

106 ...Under the Westminster parliamentary democracy, civil services constitute an important component of a triple chain of command that ensures democratic accountability. The triple chain of command is as follows:

- a. Civil service officers are accountable to Ministers;
- b. Ministers are accountable to Parliament/Legislature;
- and
- c. Parliament/Legislature is accountable to the electorate.

107. An unaccountable and a non-responsive civil service may pose a serious problem of governance in a democracy. It creates a possibility that the permanent executive, consisting of unelected civil service officers, who play a decisive role in the implementation of government policy, may act in ways that disregard the will of the electorate.

108. ...In a federal polity, a fundamental question which arises is which would be the more appropriate authority to whom the civil service officers would be accountable...

110. In a democratic form of Government, the real power of administration must reside in the elected arm of the State, subject to the confines of the Constitution. A constitutionally entrenched and democratically elected government needs to have control over its administration...If a democratically elected government is not provided with the power to control the officers posted within its domain, then the principle underlying the triple-chain of collective responsibility would become redundant. That is to say, if the government is not able to

control and hold to account the officers posted in its service, then its responsibility towards the legislature as well as the public is diluted. The principle of collective responsibility extends to the responsibility of officers, who in turn report to the ministers. If the officers stop reporting to the ministers or do not abide by their directions, the entire principle of collective responsibility is affected...

111... Therefore...GNCTD ought to have control over “services”, subject to exclusion of subjects which are out of its legislative domain.”

(2023 Constitution Bench judgment)

6.12 Therefore, the principle of collective responsibility in a democracy - incorporated in Article 239AA(6) - requires that the elected government be vested with control over officials posted in its domain.

6.13 In the federal context, this would require that such control be vested in the regional government – i.e. the GNCTD under Article 239AA – for matters in its domain. This essential feature was secured for the GNCTD by this Hon’ble Court’s 2023 Constitution Bench judgment, and is now sought to be undone by the Impugned Ordinance in the following ways:

- i. Sections 41 and 45H of the GNCTD Act 1991 vest ‘sole discretion’ with the LG over, *inter alia*, transfers, postings, and disciplining of civil servants posted in the GNCTD’s domain (ref Sections 4 and 5 of the Impugned Ordinance).
- ii. Sections 45E and 45H constitute the Authority, comprising the Chief Minister as Chairperson along with two bureaucrats, and tasked *inter alia* with making ‘recommendations’ to the LG on the above matters. It is

specifically provided that, in case of any difference of opinion, the LG's decision is final.

- iii. Moreover, even as a recommending body, the Authority is designed such that the head of the elected government, the Chief Minister of Delhi, presides over his own minority. The two bureaucrats can outvote him (ref Section 45E(3)), hold meetings and make recommendations in his absence (ref Section 45F(3)), and even unilaterally delegate the making of recommendations to another body, surrendering even the pretense of democratic involvement (ref Provisos in Section 45H(1)-(3)). To make matters worse, the Authority over which the elected Chief Minister presides is further required to submit 'Annual Reports' to the Centre about its functioning. (ref Section 45I).
- iv. Finally, Section 3A stipulates that Entry 41 of the State List ("Services") shall no more be available to Delhi's Legislative Assembly (ref Section 3 of the Impugned Ordinance).

6.14 The Impugned Ordinance, thus, completely sidelines the elected Government, i.e. the GNCTD, from control over its civil service.

6.15 This was first attempted by the Respondents in 2015, vide MHA Notification No. SO 1368 (E), the basis of which has already been declared unconstitutional in the 2023 Constitution Bench judgement of this Hon'ble Court. The Impugned Ordinance clearly seeks to revert the situation to

what the 2015 Notification had sought to install, in complete disregard for this Hon'ble Court's authoritative view.

6.16 Though the Impugned Ordinance feigns a degree of democratic involvement by making stray references to the Chief Minister, it in fact relegates the Chief Minister to being a minority-voice even in the Authority tasked with making non-binding 'recommendations'. The Impugned Ordinance shows contempt for elected assembly and elected government while making a pretense of their involvement through the Chief Minister.

6.17 Article 239AA incorporates a rich, federal democracy in Delhi: one in which the regional and national aspirations of the electorate can each find distinct voices in distinct governments. In the words of this Hon'ble Court in the 2023 Constitution Bench judgment:

*“The principles of democracy and federalism are essential features of our Constitution and form a part of the basic structure. Federalism in a multi-cultural, multi-religious, multi-ethnic and multi-linguistic country like India ensures the representation of diverse interests. It is a means to reconcile the desire of commonality along with the desire for autonomy and accommodate diverse needs in a pluralistic society. **Recognizing regional aspirations strengthens the unity of the country and embodies the spirit of democracy.** Thus, in any federal Constitution, at a minimum, there is a dual polity, that is, two sets of government operate: one at the level of the national government and the second at the level of the regional federal units. **These dual sets of government, elected by “We the People” in two separate electoral processes, is a dual manifestation of the public will. The priorities of these two sets of governments which manifest in a federal***

system are not just bound to be different, but are intended to be different.” (Para 74, 2023 Constitution Bench)

- 6.18** The Impugned Ordinance, by seizing control over civil servants posted in the GNCTD and vesting it in the hands of the Union’s nominee, erodes not only the premise of democratic governance but also the regional will of Delhi’s electorate. The Impugned Ordinance violates Article 239AA on both counts.
- 6.19** Further, Article 239AA(3)(a) stipulates that the Legislative Assembly shall have competence over all matters in the State List, except Entries 1, 2, and 18. It has been categorically held by this Hon’ble Court that no State List entry, other than these, shall stand excluded from the Delhi Assembly’s competence. (***Para 164, 2023 Constitution Bench judgment***).
- 6.20** By removing Entry 41 of the State List from the Delhi Assembly’s competence, in addition to the entries enumerated in Article 239AA, Section 3A of the GNCTD Act brings about a constitutional amendment by executive fiat and is therefore liable to be struck down.
- 6.21** Lastly, under the scheme of Article 239AA, the LG enjoys discretion only in matters falling outside the GNCTD’s legislative and executive domain, and in all other matters (including ‘Services’) is bound by the aid and advice of the Council of Ministers. In the latter category, the LG enjoys no discretion – a feature essential to preserving the GNCTD’s federal domain – and can only refer a difference of opinion to the President. Therefore, the Constitution does not

envisage any overlap between the areas in which LG acts *eo nomine* (i.e. the areas outside GNCTD's domain) and the areas in which the LG is bound by aid and advice (i.e. the areas within GNCTD's domain).

6.22 Section 45H of the GNCTD Act, by stipulating that the LG's decision in respect of transfers, postings, and disciplining of civil servants, shall be final in case of any 'difference in opinion', collapses this dual scheme under Article 239AA. If this is upheld, every function of the LG to be carried out on aid and advice, can be reduced to *eo nomine* powers of an unelected official, threatening the scheme of Article 239AA.

6.23 Therefore, the Impugned Ordinance, in so far as it completely upends the scheme of democratic, federal governance in Article 239AA, is not a valid exercise of the Parliament's concurrent competence over Entry 41 under Article 239AAA(3)(b) or of its "supplementary" law-making powers under Article 239AA(7) which is meant for "giving effect to" the provisions of Article 239AA and not to damage or destroy the scheme of democratic, federated governance envisaged in Article 239AA.

The Impugned Ordinance is manifestly arbitrary in violation of Article 14

6.24 That, since this Hon'ble Court's decision in *Shayara Bano v. Union of India (2017) 9 SCC 1*, it is settled law that even legislations may be held to be unconstitutional on the anvil of manifest arbitrariness.

6.25 That, this position has been reiterated in several decisions of this Hon'ble Court including *Union of India v. Ganpati*

Dealcom (2023) 3 SCC 315 (para 53), *Joseph Shine v. Union of India* (2019) 3 SCC 39 (paras 26, 65), *Hindustan Construction v. Union of India*, (2020) 17 SCC 324 (paras 60-62).

6.26 Thus, a legislation may be held to be unconstitutional under Article 14 if found to be “*done capriciously, irrationally and/or without adequate determining principle...when something is done which is excessive and disproportionate...*” or if found to be “*not fair, not reasonable, discriminatory, not transparent, capricious, biased... and not in pursuit...equitable treatment...*” (paras 95, 101, *Shayara Bano*).

6.27 It is submitted that the Impugned Ordinance, particularly Sections 41, 45D, 45E, 45K, and 45H, fails on this count as well.

Sections 41, 45E, 45H (concerning control over ‘Services’) are manifestly arbitrary

6.28 This Hon’ble Court has noted that the civil service is the “soul” of any administration without which governance itself is impossible, democratic or otherwise:

“98. Civil services form an integral part of modern government. Professor Herman Finer, in his classic work titled “The Theory and Practice of Modern Governance”, states that “the function of civil service in the modern state is not merely an improvement of government; for without it, indeed, government itself would be necessarily impossible.” The efficacy of the State and the system of responsible government to a large part depend upon professionals, who embody the institution of a competent and independent civil service...

101. In the Indian Constitution, an entire Part, Part XIV, is dedicated to 'services', indicating the great significance which the members of the Constituent Assembly reposed in the civil service officers. During the Constituent Assembly Debates, the civil services were referred to as the "soul of administration" and it was said that the "importance of the civil services cannot be gainsaid."... The effectiveness of the elaborate provisions of Part XIV is to a large extent dependent upon the relationship between the ministers and civil service officers.

(Para 98-101, 2023 Constitution Bench).

6.29 That, by removing the civil service's accountability to the government whose policies it is tasked with implementing, the Impugned Ordinance denudes the structure that holds up governance itself. By breaking the link that keeps the civil service accountable for its key role in governance, i.e. the efficient, unbiased, and timely administration of the government's policies, the Impugned Ordinance erodes the civil service's incentives for due and fair performance of their role. In the words of this Hon'ble Court:

"A democratically elected government can perform, only when there is an awareness on the part of officers of the consequences which may ensue if they do not perform. If the officers feel that they are insulated from the control of the elected government which they are serving, then they become unaccountable or may not show commitment towards their performance." **(Para 110, 2023 Constitution Bench judgment)**

6.30 That, in so far as the Impugned Ordinance, vide Sections 41, 45E and 45H, seeks to divorce control of the GNCTD from the civil service posted in its domain, it is evidently capricious and without determining principle - it suffers from a lack of any plausible and legitimate objective and can only

be explained as an exercise in whimsical politics at the expense of Delhi's electorate.

Section 45K (allowing bureaucrats and LG to override decisions of the Council of Ministers and Ministers-in-charge, and empowering bureaucrats to block Cabinet notes) is manifestly arbitrary

- 6.31** That Section 45K confers on civil servants within the GNCTD wide-ranging discretion to stall, disobey, and contradict the decisions taken by the Council of Ministers and Ministers-in-charge of GNCTD.
- 6.32** That by vesting control over civil servants in the hands of the Union, and then conferring wide discretionary powers on civil servants to override the GNCTD, the Impugned Ordinance in effect and design allows the Union to take over the governance of Delhi.
- 6.33** That first, Section 45K(1) confers on departmental Secretaries the authority to prepare, authenticate, and effectively finalise all Cabinet notes before they are forwarded for the consideration of the Council of Ministers. This authority, heretofore, vested with the Minister-in-charge.
- 6.34** That by vesting it in bureaucrats instead, the Impugned Ordinance allows civil servants under the Union of India's control to simply block the GNCTD's agenda before it can even be considered and decided on by the elected government, and is therefore manifestly arbitrary.
- 6.35** That second, in case the first hurdle is cleared, Sections 45K(3) and 45K(5) allow bureaucrats, particularly the Chief

Secretary and concerned Secretaries of Departments, wide-ranging authority to override or suspend decisions taken by the Council of Ministers or the Minister-in-charge, on the pretext of a disagreement as to their ‘legality’. Further, Section 45K(5), in the event of such a disagreement, requires the matter to be sent to the LG for “taking a decision thereon.”

- 6.36** That the impugned provisions provide that, the moment the Chief Secretary/Secretary to the Council of Ministers registers a personal disagreement on the question of legality, even decisions taken by the Council of Ministers simply be brought to a halt, despite the fact that these decisions are vetted by legal experts in the legal departments of Ministries and the Law Ministry, where necessary.
- 6.37** That this has effectively elevated the personal opinions of the Secretaries above decisions taken by the elected Government, and granted the Secretaries a *carte-blanche* to disobey directions from Ministers and stall Council proposals by sitting in adjudication of their legality. This indeed, is precisely how the provision has been working in practice even in the short span of time that it has been in force, and instances of misuse of this power are enclosed with the present Petition.
- 6.38** That the impugned provision further requires that, once such a disagreement arises on the question of legality, the matter be referred to the LG for his “decision thereon”.
- 6.39** That under the scheme of Article 239AA, mere personal disagreement about the legality of particular decisions within

the GNCTD's domain, cannot confer independent executive power on either bureaucrats or the LG.

6.40 That the Impugned Ordinance does precisely – it attempts to elevate the LG, and through his office, the Union of India, to the status of a court, conferring on them powers of adjudication pending which the elected Government's decisions may be kept in abeyance.

6.41 That, by allowing bureaucrats and the LG to adjudicate the legality of the elected Government's decisions and take executive actions on that basis, the Impugned Ordinance completely collapses the scheme of separation of powers and of governance under Article 239AA. Since the decisions are vetted by legal experts within each department/ ministry where needed, the impugned provision only serves to further stall governance on the say-so of the Union of India, through the LG/bureaucrats, and is therefore manifestly arbitrary.

Section 45D (concerning control over independent bodies, commissions, etc.) is manifestly arbitrary

6.42 Section 45D of the GNCTD Act, in stipulating that *all* statutory bodies, commissions, boards, and authorities in the NCTD be constituted by and their members appointed by the President, suffers from the same infirmity and completes the deliberate design of the Impugned Ordinance to allow the Union of India to take over governance in Delhi.

6.43 That there are over 50 bodies working for the people of Delhi that would be hit by this one blanket provision, and the control over which will pass from the people of Delhi to the Union of India.

- 6.44** That these bodies work in sectors ranging from transportation (Delhi Transport Corporation), water (Delhi Jal Board), industry (Delhi State Industrial Development Corporation), women's and children's rights (Delhi Women Commission, Delhi Commission for Protection of Child Rights), and electricity (Delhi Electricity Regulatory Commission), to name only a few.
- 6.45** That, to take only one example, under Section 11 of the Delhi Electricity Regulatory Commission Act 2000, the DERC is tasked with, *inter alia*, determining the electricity tariff for the people of NCTD and for industries operating in it, and regulating the conditions in which players may enter into or exit from power generation. Notably, these are decisions with strong social and financial implications, and would directly impact the availability of power for the people of Delhi and implicate budgetary questions about the quantum of subsidies, for example. At the same time, under Section 8(4) of the DERC Act, the salaries and allowances for the members and staff of the DERC come from the Consolidated Fund of the GNCTD.
- 6.46** That notably, each of these 50 or more bodies are specifically constituted for the needs of NCTD's electorate, affect their day-to-day lives, and are financed by the GNCTD. After the civil service, these bodies are the epicenter of administration in Delhi.
- 6.47** That the arbitrariness in the provision is writ large that while these bodies will continued to be financed by budgets

approved by the Delhi Assembly and Delhi Government, the appointments will be made by the Central political executive.

6.48 That Section 45D enacts a sweeping provision that passes *control* over each of these remaining structures of governance also to the Union of India, while retaining responsibilities (of financing as well as of popular accountability) with the GNCTD.

6.49 In doing so, it completes the Impugned Ordinance’s attempt to reduce the GNCTD to an ‘administrative arm’ of the Union, bound by delegated duties and accountable to the people, but lacking a commensurate measure of control and power. That this Hon’ble Court in the 2023 Constitution Bench judgment has noted that Dr. B.R. Ambedkar had warned against this possibility:

*“Dual Polity under the proposed Constitution will consist of the Union at the Centre and the States at the periphery each endowed with sovereign powers to be exercised in the field assigned to them respectively by the Constitution... **the Indian Constitution proposed in the Draft Constitution is not a league of States nor are the States administrative units or agencies of the Union Government.**”*
(Constituent Assembly Debates, Vol. 7 at p. 33 (4 November 1948))

6.50 That despite the tectonic shift this provision effects in NCTD’s governance, it has been passed with a blanket *non-obstante* clause, without any application of mind towards reconciling such a transparent power-grab with the unique statutory schemes and purposes of each body and its role in the governance of Delhi.

6.51 That, moreover, GNCTD's control over some of these bodies is a constitutional mandate. For example, the State Finance Commission under Article 243-I of the Constitution or the State Public Service Commission under Article 315 are required to be constituted by the Governor on the aid and advice of the elected Government. Section 45D of the Impugned Ordinance cannot operate to displace the GNCTD's control over bodies constitutionally placed in its ambit. This is not only unconstitutional, but also further demonstrates the complete non-application of mind in promulgating the Impugned Ordinance.

6.52 That, by effectively passing control over the remaining structures of governance in GNCTD also to the Union of India, and separating the government which is answerable from the government which is in control, Section 45D does not only violate the federal, democratic scheme of Article 239AA.

6.53 That it also violates Article 14 on account of being manifestly arbitrary, lacking any discernible principle or any application of mind beyond a naked usurpation of power.

In particular, Section 45B of the GNCTD Act breaches the constitutional scheme under Part XIV of the Constitution

6.54 That Section 45B of the GNCTD Act, introduced vide the Impugned Ordinance, provides that the Union Public Service Commission and the Delhi Subordinate Services Selection Board ('DSSSB') shall serve as the 'Public Service Commissions' for the NCTD.

- 6.55** That Public Service Commissions at the Union and State level are independent constitutional bodies, required to be constituted for the Union and each State under Article 315 of Part XIV of the Constitution.
- 6.56** That this Hon'ble Court in *Union of India v. Prem Kumar Jain (1976) 3 SCC 473* has held that 'State' in Part XIV of the Constitution includes Union Territories. As such, therefore, Article 315 of the Constitution provides that NCT of Delhi shall have an independent, constitutional body, i.e. a State Public Service Commission, of its own.
- 6.57** That Part XIV of the Constitution entrenches a series of protections and safeguards in the design of the Public Service Commissions to ensure their independence as well as their answerability to the elected government. For example, Article 316(1) provides that members of the State Public Service Commission, including its Chairperson, shall be appointed by the Governor on the aid and advice of the elected Government. At the same time, to ensure independence and distance from transient electoral majorities, Articles 316(2) and 319, respectively, provide stability of tenure to members of the Commission and restrict them from some kinds of post-retirement employment under the Governments of the State/Centre.
- 6.58** That Section 45B of the GNCTD Act 1991 elevates, by a deeming fiction, a Selection Board created by an executive Resolution (DSSSB) to a substitute for a carefully designed and constitutionally entrenched body, i.e. the State Public Service Commission for NCTD.

6.59 That the DSSSB, far from being an independent constitutional Commission, is created as an attached office of the Services Department of the Government of NCT of Delhi. Notably, there is neither any provision for stability of tenure, nor any for restriction from taking on other government employment after office. A true copy along with true typed copy of the Resolution No. F.3 (24)/DSSSB/2008-S.III/1764 dated 12.05.2008, reconstituting the Delhi Subordinate Services Selection Board, is annexed herewith as **Annexure P-4** at pages **156** to **166** .

6.60 That other regional units that have constituted Subordinate Services Selection Boards have consciously done so in *addition* to the State Public Service Commission, for facilitating a narrow range of service matters. For example, the Punjab Subordinate Services Selection Board has been constituted under the *Proviso* to Article 320(3) which allows regulations to be notified specifying particular matters in which the State Public Service Commission need not be consulted. Indeed, in the terms of its very constitution, it is made evident that the Board *may not* be considered the Commission. A true copy of the ‘About Us’ page of the Punjab Subordinate Services Selection Board, detailing the source of the Board’s jurisdiction and powers, is annexed herewith as **Annexure P-5** at pages **167** to **NIL** .

6.61 That, therefore, in so far as Section 45B of the GNCTD Act deems the DSSSB to be the Delhi Public Service Commission, it acts in total disregard of the constitutional mandate under Article 315, and is liable to be set aside.

In particular, Sections 45C and 45J of the GNCTD Act are unconstitutional for denuding democratic governance guaranteed for the NCTD under Article 239AA

6.62 That Section 45J of the GNCTD Act, introduced vide the Impugned Ordinance, provides in cl.(2) that Ministers of the GNCTD may issue standing orders concerning matters to be brought to their personal attention, “in consultation with the Secretary concerned.”

6.63 That, in so far as Section 45J of the GNCTD Act requires an elected Minister to consult an unelected bureaucrat before even directing that certain matters be mandatorily brought to his notice, it is patently unconstitutional and anti-democratic.

6.64 That in cl. (4) of Section 45J, the Impugned Ordinance provides for a wide range of matters that are required to be brought before the unelected LG for his opinion, before any action is taken thereon.

6.65 That the requirement of obtaining the LG’s opinion prior to implementation of executive actions, that too on this wide a range of matters, militates against and makes impossible the idea of democratic governance.

6.66 That cl. (4) of Section 45J is also in clear breach of this Hon’ble Court’s holding in the 2018 Constitution Bench wherein it was declared that (a) the LG is bound by the aid and advice of the Council; (b) the LG is required to be only intimated of executive decisions – no prior opinion or concurrence is required; and (c) only in exceptional situations can the LG create and refer a difference of opinion to the President.

6.67 That Section 45J turns this entire scheme on its head and gives LG limitless executive power, particularly the power of pocket veto, through the back door. For this reason, Section 45J is liable to be struck down.

6.68 That, lastly, Section 45C of the GNCTD Act, introduced by the Impugned Ordinance, confers powers on the Central Government to make rules on a wide range of matters including the powers and functions of all officials posted in the GNCTD, their terms of service, the requisite qualification for their appointment and the manner of their recruitment, their transfers and postings as well as rules governing their disciplining. In doing so, Section 45C further consolidates the control of the Union and the complete banishment of the concerned elected Government from controlling their own civil service and is liable to be set aside for that reason.

THE IMPUGNED ORDINANCE IMPERMISSIBLY ‘REVIEWS’ AND ‘OVERRULES’ THE CONSTITUTION BENCH JUDGMENT OF THIS HON’BLE COURT IN GNCTD V. UNION OF INDIA, CIVIL APPEAL No. 2357/2017

6.69 That it is settled law that it is impermissible for the legislature to simply overrule a decision of this Hon’ble Court – it is only permissible for it to remove or alter the basis of a judicial decision, such that the decision would not have been rendered in that altered background. (*ref Shri Prithvi Cotton Mills v. Broach Burough Municipality*, (1969) 2 SCC 283, *Indian Aluminium Company Co. v. State of Kerala*, (1996) 7 SCC 637, *Baharul Islam v. Indian Medical Association*, 2023 SCC

OnLine SC 79). Indeed, if this were to not be so, separation of powers and rule of law itself would become illusory.

6.70 That, in direct violation of this settled position of law, the Impugned Ordinance seeks to reverse the 2023 Constitution Bench judgment of this Hon'ble Court, without attempting to alter in any way its basis, i.e. Article 239AA of the Constitution. In its decision dated 11.05.2023 in Civil Appeal No. 2357/2017, this Hon'ble Court has considered the issue of 'Services' in the NCTD, and upon an interpretation of the text and scheme of Article 239AA, held as follows:

- i.** That the Parliament and the Delhi Assembly enjoy concurrent legislative competence over Entry 41 ('Services'), while executive powers over it lay exclusively with the GNCTD subject to valid parliamentary law (**paras 78-85, 2023 Constitution Bench**);
- ii.** That, regardless of the allocation of competence between the GNCTD and the Union, a valid exercise of such competence would have to comply with the substantive requirements of Article 239AA of the Constitution, particularly, the principles of collective responsibility, Westminster-style democracy, and federalism. These requirements, in turn, require control over civil servants posted in the GNCTD's domain to be vested in the GNCTD (**paras 98-111, 2023 Constitution Bench**).

6.71 That this Hon'ble Court has thus expounded on the position of 'Services' in the NCTD on two aspects: *first*, the allocation

of legislative/executive competence over ‘Services’ between the GNCTD and the Union, and *second*, the substantive requirements for a law to constitute a valid exercise of such competence under Article 239AA.

6.72 That this Hon’ble Court’s ruling on each of these issues was based on a reading of, not the GNCTD Act, but the text and scheme of Article 239AA of the Constitution itself.

6.73 That, thus, it has been clearly held by this Hon’ble Court that Article 239AA of the Constitution prescribes not only a distribution of powers between the Union and the GNCTD, but also substantive limits on the use of such powers with respect to ‘Services’.

6.74 That, thus, even though the Parliament is competent to enact laws on all subject-matters in respect of NCTD, its power is not plenary, but is rather constrained by substantive limits imposed by the text and principles of Article 239AA itself that have been expounded upon by two Constitution Benches of this Hon’ble Court.

6.75 That the Impugned Ordinance attempts to reverse this Hon’ble Court’s ruling on each of these two aspects by simply amending the GNCTD Act, without amending the ruling’s basis, i.e. the Constitution itself:

- i.** Section 3A of the GNCTD Act removes Entry 41 (‘Services’) from the Delhi Assembly’s competence, plainly reversing this Hon’ble Court’s ruling that the Parliament and Delhi Assembly enjoy concurrent competence over Entry 41 in Article 239AA’s scheme,

- ii. Sections 41 and 45H of the GNCTD Act, by sidelining the elected GNCTD in control of its own civil servants, reverse the decision of this Hon'ble Court wherein it was held that the vesting of such control in the GNCTD was a substantive constitutional requirement under Article 239AA.

6.76 That, in conclusion, the Impugned Ordinance does not – indeed, could not – amend or alter the basis of the Hon'ble Court's ruling, i.e. Article 239AA of the Constitution and the allied principles of democratic governance, federalism, and collective responsibility. Thus, in so far as the Impugned Ordinance reverses this Hon'ble Court's decision, it amounts to an impermissible 'direct overruling' or 'review' and is liable to be struck down.

IN ANY CASE, AND WITHOUT PREJUDICE TO THE ARGUMENTS ABOVE, THE IMPUGNED ORDINANCE IS AN UNCONSTITUTIONAL ABUSE OF ORDINANCE-MAKING POWERS UNDER ARTICLE 123 OF THE CONSTITUTION

6.77 That the Impugned Ordinance represents a textbook instance of abuse of ordinance-making power under Article 123 for enacting anti-democratic legislations without the guardrails of popular deliberations in the House of the People and the Council of States. Indeed, a 7-judge Bench of this Hon'ble Supreme Court in *Krishna Kumar Singh v. State of Bihar*, (2017) 3 SCC 1, has held that ordinance-making power under the Constitution of India may only be exercised upon the **objective satisfaction** that circumstances exist that render

immediate action **necessary** (as opposed to merely ‘desirable’).

- 6.78** That in the present instance, it is evident that there was no urgency or necessity to promulgate the Impugned Ordinance, given that the *status quo* it seeks to reverse was declared by this Hon’ble Court after extensively deliberating over not only the requirements of democratic governance under Article 239AA, but also the Union of India’s/Respondents’ interests in the national capital territory. In other words, the Respondents’ immediate interests were built into and fully considered in the *status quo* put in place by this Hon’ble Court. In such an event, there can be no ‘urgency’ or ‘necessity’ in overturning it.
- 6.79** That, further, the promulgation of the present Ordinance is an apparent attempt to circumvent democratic and judicial deliberations.
- 6.80** That the Cabinet Resolution approving the promulgation was passed on 17.05.2023, a mere 6 days after the ruling of the 2023 Constitution Bench of this Hon’ble Court. Furthermore, despite the Cabinet approval on 17.05.2023, the Ordinance was promulgated only on 19.05.2023, and became available in the public domain late in the evening of 19.05.2023, i.e. after the Hon’ble Court rose for vacations.
- 6.81** That the unseemly hurry in reversing a ruling of this Hon’ble Court via Ordinance, and the timing of its promulgation, reveals a conscious intent to avoid democratic as well judicial deliberations that could safeguard the interests of the people of Delhi.

6.82 That, the provisions of the Impugned Ordinance that are not specifically challenged heretofore are supporting provisions that cannot survive in the event that the other provisions are declared to be unconstitutional. That, therefore, for all the reasons as aforesaid, the Impugned Ordinance is liable to be struck down as a whole.

6.83 Such other grounds as may be permitted by the Hon'ble Court may be taken at the time of hearing of the instant Writ Petition.

6.84 Diary No. 25097 of 2023, filed by the Petitioner on 26.06.2023, is limited to challenging Section 45D of the Impugned Ordinance in the context of a specific body, i.e., the Delhi Electricity Regulatory Commission, and the appointment made thereto. The Petitioner declares that it has not filed any other Writ Petition on the same cause of action before this Hon'ble Court or any other court in India. To the best of the Petitioner's knowledge, no similar matter is pending before this Hon'ble Court.

7. No other petition seeking the same or similar relief has been filed before any other court of law.

8. The present petition is *bona fide* and in the interest of justice.

PRAYER

In light of the foregoing submissions, it is prayed that this Hon'ble Court may be pleased to:

(a) Pass a direction, order, or appropriate writ declaring and quashing the Government of National Capital Territory of Delhi (Amendment) Ordinance 2023, as unconstitutional;

- (b) Pass a direction, order, or appropriate writ declaring and quashing Section 3A of the Government of National Capital Territory of Delhi Act, 1991 as introduced by the Government of National Capital Territory of Delhi (Amendment) Ordinance 2023, as unconstitutional;
- (c) Pass a direction, order, or appropriate writ declaring and quashing Section 41 of the Government of National Capital Territory of Delhi Act, 1991 as amended by the Government of National Capital Territory of Delhi (Amendment) Ordinance 2023, as unconstitutional;
- (d) Pass a direction, order, or appropriate writ declaring and quashing Sections 45B, 45C, 45D, 45E, 45F, 45G, 45H, 45I, 45J, and 45K of the Government of National Capital Territory of Delhi Act, 1991 as introduced by the Government of National Capital Territory of Delhi (Amendment) Ordinance 2023, as unconstitutional;
- (e) Pass any other order or direction that this Hon'ble Court may deem fit and appropriate in the interest of justice.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER, AS DUTY BOUND, SHALL EVER PRAY TO THEIR LORDSHIPS.

DRAWN BY:

Shadan Farasat, Adv.

Hrishika Jain, Adv.

SETTLED BY:

Dr. A.M. Singhvi, Sr. Adv.

Place: New Delhi

Drawn on: 30.06.2023

Filed on: 30.06.2023

FILED BY:

**SHADAN FARASAT
ADVOCATE FOR THE PETITIONERS**