

IN THE HIGH COURT AT THE JUDICATURE AT BOMBAY
AT BOMBAY
CRIMINAL PUBLIC INTEREST LITIGATION No. _____/2014

In the matter of Sec. 2 (j) of
the Right to Information Act,
2005,

And

In the matter of Sec. 3 of the
Right to Information Act,
2005,

And

In the matter of Article 13 of
The Constitution of India,

And

In the matter of Article 21 of
The Constitution of India,

And

In the matter of Article 47 of
The Constitution of India,

And

In the matter of Article 226 of
The Constitution of India,

And

In the matter of entry 13 List I
Schedule VII of The
Constitution of India,

And

In the matter of Article 253 of
The Constitution of India,

And

In the matter of Single
Convention on Narcotic
Drugs, 1961, Convention on
Psychotropic Substances,
1971 and the UN Convention
Against Illicit Traffic in
Narcotic Drugs and
Psychotropic Substances,
1988, to which India is
signatory to all three,

And

In the matter of Section 8 (b) of The Narcotic Drugs and Psychotropic Substances Act, 1985,

And

In the matter of Sections 2 (iii) and 2 (iv), 10(1)(a)(iii), 10(2)(b) & 10(2)(d) of The Narcotic Drugs and Psychotropic Substances Act, 1985,

And

In the matter of Section 14 of The Narcotic Drugs and Psychotropic Substances Act, 1985,

And

In the matter of Section 20 of The Narcotic Drugs and Psychotropic Substances Act, 1985,

And

In the matter of entry (vii) and entry (x) in table U/s. 31A of The Narcotic Drugs and Psychotropic Substances Act, 1985,

And

In the matter of Schedule I, Entry (2) of The Narcotic Drugs and Psychotropic Substances Act, 1985,

And

In the matter of Sl. No. 23 of Notification Specifying Small Quantity and Commercial Quantity, published in the Gazette of India, dated 19.10.2001, for the purposes of Section 2 (viia) and 2 (xxiia) of The Narcotic Drugs and Psychotropic Substances Act, 1985,

And

In the matter of National Policy on Narcotic Drugs and Psychotropic Substances,

Aditya Barthakur	}
Age: 34, Occupation: Advocate	}
R/at: [...]	}
[...]	}
[...]	}
Pune – [...]	}.... Petitioner

V/s.

1. Department of Health and Family Welfare, }
Government of India, Nirman Bhavan, }
New Delhi – 110011 }
2. Department of Health Research }
Ministry of Health and Family Welfare }
2nd Floor, IRCS Building, Red Cross }
Road, New Delhi – 110001 }

3. Indian Council of Medical Research }
 Ministry of Health and Family Welfare, }
 Government of India, V. Ramlingaswami }
 Bhavan, Ansari Nagar, New Delhi -110029 }
4. The Director-in-Charge, }
 National Institute of Nutrition, }
 Jamai-Osmania, Hyderabad – 500007 }
5. Central Bureau of Narcotics, }
 19, The Mall, Morar, }
 Gwalior - 474 006 }
6. Legislative Department Room No.416, }
 A-Wing, Fourth Floor, Shastri Bhawan, }
 M/o. Law and Justice, New Delhi – 110001 }
7. Law Commission of India, 14th Floor, }
 Hindustan Times House K. G. Marg, }
 New Delhi – 110001 }
8. Union of India }
9. State of Maharashtra }.....**Respondents**

TO,

**THE HON'BLE CHIEF JUSTICE AND OTHER PUISNE JUDGES
 OF THIS HON'BLE HIGH COURT AT THE JUDICATURE AT
 BOMBAY.**

Most Respectfully Sheweth:-

1. The petitioner above named states that the petitioner had written a Right to Information Application dated 02.09.2014,

to the Ministry of Health and Family Welfare, questioning and requiring answers from the said Ministry, on scientific/medical reasons, as to how was, consumption of Cannabis in any form harmful to humans.

2. The petitioner states that Ministry of Health and Family Welfare, by its reply, dated 11.09.2014, informed the petitioner, that the Right to Information Application of the petitioner, dated 02.09.2014, received by Ministry of Health and Family Welfare on 09.09.2014, was transferred to one Smt. Sunita Sharma, Deputy Secretary, Department of Health Research, IInd Floor, Red Cross, Building, New Delhi, U/s. 6(3) of the Right To Information Act, 2005. Hereto annexed and marked as **Exhibit - A** is the certified true copy of the reply dated 11.09.2014.
3. The petitioner states that the petitioner received a reply, dated 18.09.2014, from Department of Health Research, informing the applicant, that Department of Health Research had no information available on the subject, and, had forwarded petitioners Right to Information Application to Indian Council of Medical Research. Hereto annexed and marked as **Exhibit - B** is the certified true copy of the reply dated 18.09.2014.
4. The petitioner states that the petitioner received a reply, dated 15.10.2014, from the Indian Council of Medical Research, informing the petitioner that the Right to Information Application of the petitioner had been forwarded to the Director-in-Charge, National Institute of Nutrition Jamai-Osmania, PO Hyderabad – 500007. The petitioner thus states that the petitioner never received any satisfactory reply, whatsoever, on the Right to Information Query pertaining to Cannabis. Hereto annexed and marked as **Exhibit - C** is the certified true copy of the reply dated 15.10.2014.

5. The petitioner states that the petitioner received a reply, dated 28.11.2014, from the National Institute of Nutrition, which to the utter shock, disbelief, dismay and awe of the petitioner, was nothing but a copy-pasted reply from the website of National Highway Traffic Safety Administration of New Jersey. The petitioner states that the said website has no bearing in the citizens of this great nation, and, shows a complete lack of professionalism, technical knowledge, knowhow and sensitivity to the issue, i.e., if there are any ill effects of consumption of Cannabis, on human body, on part of the National Institute of Nutrition. The petitioner, therefore states that the National Institute of Nutrition, has failed to perform its duty as a Public Body, i.e., to provide the petitioner with a satisfactory answer to a legitimate query. Hereto annexed and marked as **Exhibit - D colly** is the certified true copy of the reply dated 28.11.2014 by National Institute of Health and Nutrition and printout of the website National Highway Traffic Safety Administration of New Jersey from where the said information was copy-pasted.
6. The petitioner states that the petitioner had also written a Right to Information Application dated 14.10.2014, to the Central Bureau of Narcotics, questioning the Central Bureau of Narcotics to provide me the petitioner with scientific/ medical reasons, as to how is consumption of Cannabis, in any form harmful to humans, and, if there are no scientific/ medical reasons to prove the fact that consumption of Cannabis, in any form is harmful, for human's, to provide me the petitioner, with information, on which grounds consumption, cultivation etc, of Cannabis, as mentioned in Narcotic Drugs and Psychotropic Substances Act, 1985, is made illegal. Petitioner states that the petitioner received a reply dated 31.10.2014, (wherein the year is wrongly typed as 2013). However, the said reply from Central Bureau of Narcotics was bereft of any scientific/ medical reasons for making cannabis illegal, and, only mentioned the provisions

contained in the Narcotic Drugs and Psychotropic Substances Act, 1985. Hereto annexed and marked as **Exhibit – E colly** is the certified true copy of the reply dated 31.10.2014 along with the Right to Information Application dated 14.10.2014.

7. The petitioner states that the petitioner had also written a Right to Information Application dated 22.10.2014, to the Legislative Department, Ministry of Law and Justice, asking the same questions aforementioned. However the Legislative Department, Ministry of Law and Justice, had transferred the Right to Information Application of the petitioner, to the Department of Revenue, and, informed the petitioner of the same by their reply dated 30.10.2014. The petitioner states that the petitioner is unable to fathom, as to how was the Department of Revenue, to satisfy the questions raised by the petitioner, when it is within the ambit, scope and also the primary function of the Legislative Department, *inter-alia*, to mainly draft all principal legislation for the Central Government viz, Bills to be introduced in Parliament, Ordinances to be promulgated by the President, measures to be enacted as President`s Acts for States under the President`s rule and Regulations to be made by the President for Union territories etc. Petitioner states that to the absolute disbelief of the petitioner, the petitioner received a reply dated 12.11.2014, from the Department of Revenue, which treated the information sought by the petitioner as 'NIL'. Hereto annexed and marked as **Exhibit - F colly** is the certified true copy of the reply dated 30.10.2014 by Legislative Department, Ministry of Law and Justice and reply dated 12.11.2014, from the Department of Revenue, Ministry of Finance along with the Right to Information Application dated 22.10.2014.
8. Petitioner states that the petitioner is aware of the fact that under the Right to Information Act, 2005, the petitioner can prefer an appeal against the unsatisfactory reply of the

public authority, which the petitioner has. Hereto annexed and marked as **Exhibit - G colly** is the certified true copy of the first appeal dated 13.11.2014 addressed to Appellate Authority, Legislative Department, M/o. Law and Justice, and, appeal dated 17.11.2014 addressed to the Asst. Narcotics Commissioner and their respective replies dated 09.12.2014 and 09.12.2014.

9. The petitioner states that the petitioner had also written a Right to Information Application dated 17.10.2014, to the Law Commission of India, asking them the same questions. The petitioner states that the petitioner received a reply dated 24.11.2014, informing the petitioner that Law Commission of India does not deal in such matters, and, hence, petitioners Right to Information Application was transferred to the Ministry of Health and Family Welfare. The petitioner thus states that the petitioners Right to Information Application, again got transferred to the same department, to which the petitioner had referred Right to Information Application dated 02.09.2014, and, received a reply to the same dated 11.09.2014, which is annexed with this petition at Exhibit – A. Hereto annexed and marked as **Exhibit - H colly** is the certified true copy of the petitioner's application dated 17.10.2014 and reply dated 24.11.2014 by Law Commission of India.
10. The petitioner states that the above referred Right to Information Application's to the Law Commission of India, stood transferred to the Ministry of Health and Family Welfare, which later was transferred to the Department of Health Research, and continued its journey to the Indian Council of Medical Research, informing the petitioner, once again, that it had no information on the subject by its reply dated 09.12.2014. Hereto annexed and marked as **Exhibit - I** is the certified true copy of the reply dated 09.12.2014 by Department of Health Research.

11. The petitioner states that the petitioner received a Office Memorandum from the Ministry of Home Affairs/ Grih Mantralaya, that it had received by way of transfer the Right to Information Application of the petitioner, from the Department of Health and Family Welfare, which was being forwarded to some IS-II Division. Hereto annexed and marked as **Exhibit - J** is the certified true copy of the Office Memorandum dated 12.12.2014 in which petitioners Right to Information Application date is wrongly written as 07.11.2014 instead of 17.10.2014.
12. Petitioner states that the petitioner is also aware of the fact that under the Right to Information Act, 2005, the petitioner can proceed against the unsatisfactory reply of the public authority, under the relevant provisions of The Right to Information Act, 2005. However, petitioner states that preferring to proceed under the relevant provisions of The Right to Information Act, 2005, will turn out to be nothing but an idle ceremony, as the public authorities aforementioned have not complied to the demand of the petitioner, i.e., by satisfactorily replying to the petitioners questions in petitioners Right to Information Application's referred to the respondents under the Right to Information Act, 2005.
13. The petitioner states that the petitioner had preferred a Criminal Writ Petition bearing No. 4830 of 2014, to compel the respondents, to provide the petitioner with the medical and scientific reasons, on harmful effects of consumption of Cannabis on human body, as the respondents had failed to satisfactorily reply to the legitimate question of the petitioner in his Right To Information Application. The said Writ Petition was disposed with following order:-

“.....having argued for sometime, seeks leave to withdraw this petition with liberty to file Public Interest Litigation.....”

Hereto annexed and marked as **Exhibit - K** is the certified true copy of the order dated 20.12.2014.

14. The petitioner states that the aforementioned Ministry of Health and Family Welfare, Department of Health Research, Indian Council of Medical Research, National Institute of Nutrition, Legislative Department-Ministry of Law and Justice, Central Bureau of Narcotics and, Law Commission of India have abdicated from their responsibility to satisfactorily reply to the legitimate questions raised by the petitioner on effects of Consumption of Cannabis on human body, and, the reasons for which cultivation, sale and transport etc., of Cannabis has been made illegal with such a severe punishment.
15. Petitioner most humbly states that, it seems the petitioner has caught the respondents unawares with his queries, as petitioners Right to Information Application, has not received satisfactory reply from any of the respondents. Hence the petitioner is before this Hon'ble Court armed with his own research which he intends to share with the respondents and citizens of our great nation, for greater public good.

I. Locus Standi of the Petitioner:-

- a. In *Padma v. Hiralal Motilal Desarda & Ors.*, (2002)7 SCC 136, (Para – 11), The Hon'ble Supreme Court has held as under:-

“.....While hearing a public interest litigation the constitutional court acts as the sentinel on the qui vive discharging its obligation as custodian of the constitutional morals, ethics and code of conduct - well defined by series of judicial pronouncements. The Court is obliged to see while scrutinising the conduct and activities of a public body constituted with the avowed object of

...serving the society to see that its activities bear no colour except being transparent, are guided with the object of public good and are within the four corners of law governing the same. The holder of every public office holds a trust for public good and therefore his actions should all be above board.....In public interest litigation jurisdiction the Constitutional Court is mobilized and acts for redressal of public injury, enforcement of public duty, protection of social rights and upholding constitutional and democratic values. Technicalities do not deter the Court in wielding its power to do justice, enforcing the law and balancing the equities.”

- b. The petitioner states that abovementioned observations of the Hon’ble Supreme Court throws light on the nature, scope and purpose of Public Interest Litigation. The petitioner being aware of the same, has made this Hon’ble Court aware of a fact and brought to its notice, based on the replies received from the respondents, that the respondents have shown a complete lack of knowledge or technical knowhow and the required sensitivity to the query raised by the petitioner in his Right to Information Application addressed to respondents.

- c. The petitioner states that petitioners query in his Right to Information Application is legitimate, the answer to which should be publicly and easily available. The apathy shown by the respondents to reply satisfactorily, has a direct bearing on the health and liberty of citizens of our great nation, as it involves not only the citizens right to grow and consume their own medicine, i.e. Cannabis, and about which the petitioner speaks later in this Public Interest Litigation, but also provide medicine to the sick and needy who come over

to India as medical tourists. Furthermore, the inclusion of Cannabis in The Narcotic Drugs and Psychotropic Substances Act, 1985, without any scientific evidence to prove the fact that consumption of Cannabis in any form is harmful to humans, is directly in contravention and derogation to Article 21, of our Constitution, as citizens and non-citizens are criminally being prosecuted and sent to prison for Cannabis cultivation, sale, transport etc. Petitioner states that such an act of the state amounts to a blatant illegality which needs to be corrected.

- d. Petitioner states that as respondents have failed to provide satisfactory answers to the petitioners query in his Right to Information Application. The petitioner, therefore, states that inclusion of Cannabis in The Narcotic Drugs and Psychotropic Substances Act, 1985, without any scientific evidence to prove the fact that consumption of Cannabis in any form is harmful to humans, makes the relevant provisions in The Narcotic Drugs and Psychotropic Substances Act, 1985, *ultra vires*, the provisions of Constitution of India, 1950.
- e. The petitioner states that even though the Right to Information Application's aforementioned are of civil nature, however, they are in reference to Cannabis. The Narcotic Drugs and Psychotropic Substances Act, 1985, makes possession, cultivation, transportation, consumption etc., of Cannabis illegal and provides for severe maximum punishment of 20 years along with fine of rupees two lacs. The petitioner states that such prohibition on Cannabis is un-backed by any scientific or medical reasons, or any logical reasons whatsoever, as can be seen from the replies received from the respondents.

- f. The petitioner, therefore, has preferred this Criminal Public Interest Litigation challenging the, *vires*, of relevant provisions of The Narcotic Drugs and Psychotropic Substances Act, 1985, in relation to Cannabis, which makes possession, cultivation, transportation, consumption etc., illegal. The petitioner states that such prohibition is bereft of any scientific or any medical reasons thereof, as can be seen from the replies received from the respondents and, therefore in derogation, breach and in continued contravention to enforceable fundamental rights as enshrined in The Constitution of India, 1950.
- g. The petitioner states that the petitioner has tried to find answers with his Right to Information Application from the public bodies, which no doubt are of private nature, but pertain to the life and liberty of the citizens of this great nation or foreign nationals who might be or are criminally prosecuted and sent to prison in relation to Cannabis, under the relevant provisions of The Narcotic Drugs and Psychotropic Substances Act, 1985, which is bereft of any scientific reasons for doing so. The petitioner wanted a legitimate and a satisfactory answer to query in his Right to Information Application, as the petitioner believes, it relates to the general level of health and nutrition of the petitioner and fellow citizens.
- h. The petitioner would also like to draw Hon'ble Courts attention to the fact that Cannabis has always been an integral part of the Hindu Culture, where the extract of the plant, i.e., Bhang, is given as an offering to Lord Shiva, a revered deity by the Hindus, on Mahashivratri and ganja being consumed by many other deities.
- i. The petitioner states that the petitioner has a grievance against the conduct of the respondents for their failure to provide satisfactory answers to petitioners Right to

Information query, and, also in relation to the constitutional and statutory right of the petitioner, and, the public at large, to have a excellent and a healthy life with access and right to grow their own medicine, in this case Cannabis, which due to impugned provisions of The Narcotic Drugs and Psychotropic Substances Act, 1985 r/w. National Policy on Narcotic Drugs and Psychotropic Substances, seems to have been illegally curtailed, and, taken away from the citizens of this great nation. The petitioner states that such unexplained conduct of the respondents is directly in contravention to our Constitution.

- j. The petitioner states that the petitioner is an Advocate, and, not a Doctor, or a Medical Professional, by profession. Petitioner feeling fed up, and, let down, due to the unsatisfactory replies received from the respondents, to his simple question aforementioned, when it was and is always within the domain, scope and ambit of the respondents to reply satisfactorily, has carried out his own research, and is presenting it before this Hon'ble Court in greater public interest. The petitioner states that going through the petitioner's research produced before this Hon'ble Court, should put to rest and satisfy this Hon'ble Court, the fact that consumption of Cannabis in any form is only beneficial to human health, and, helps cure many diseases afflicting the human body, unless any contrary research be produced by the respondents, which the petitioner, most seriously doubts, placing reliance on either the evasive replies or transfer of the petitioners Right to Information Application from one department to another, by the respondents.
- k. The Petitioner states that the petitioner wants to collaborate with the respondents, by sharing his research, and, not end up in some kind of kick boxing match, or act like some fierce fast bowler, who intends

to bounce out the respondents. The petitioner is not before this Hon'ble Court with an intention to win, either, by hook or by crook.

1. The petitioner, on the contrary, through his research intends to make fundamental rights and human rights more meaningful, by sharing his research, as the petitioner strongly believes, that the citizens of this great nation have been illegally been prohibited from growing and consuming their own medicine, in this case the Cannabis Plant, which petitioner's research will show is a gift to humanity, from gods themselves.
- m. The petitioner states that the respondents have failed to act in accordance to law, and, wants the Hon'ble Court to step in, and pass necessary directions, and, or orders, in interest of justice, by declaring the relevant provisions relating to Cannabis, as contained in The Narcotic Drugs and Psychotropic Substances Act, 1985, as being, *ultra vires*, the Constitution.
- n. The petitioner states that due to the aforementioned reasons and the medical/ scientific evidence, collected by the petitioner, in support of Cannabis, which the petitioner brings along with this Public Interest Litigation, petitioner has a, *locus standi*, and has approached this Hon'ble Court, to wipe out violation of fundamental rights (which includes citizens right to grow their own medicine), and, genuine infraction (breach) of fundamental rights. The petitioner states that the petitioner is not before this Hon'ble Court for personal or private gain, profit or political motive or any oblique consideration of the petitioner.
- o. The petitioner with this Public Interest Litigation, intends to bring to the notice of this Hon'ble Court, as to how is the public interest is being jeopardized by the arbitrary, capricious and questionable actions of the

authorities, in this case the failure of the authorities to satisfactorily reply to the genuine questions of the petitioner, in his Right to Information Application, with reference to Cannabis.

- p. The petitioner states that the petitioner is acting, *bona fide*, having sufficient interest in maintaining an action in public interest, and, to achieve that purpose has put the judicial machinery in motion. Hence the petitioner has filed this Public Interest Litigation, *pro bono publico*.
- q. The petitioner states that the petitioner's research, be extensively used, where every citizen of our great nation grows Cannabis, unless refuted, for curing, and for providing relief to all those afflicted with a disease and undergoing or experiencing severe pain, and widely circulated amongst the medical fraternity, unless the petitioner is proved otherwise.

GROUNDS

- I. The petitioner states that Cannabis (origin Greek from *kánnabis*) is also known by various other names in different parts of the world namely; astro turf (The United States), bhang (India), dagga (South Africa), dope (Holland), ganja (India), grass (England), hemp(England), Mary Jane (originates from Spanish Language), pot (Australia), weed (England), marijuana (Mexican/Spanish/Latin America) etc.

II. British Colonization and Cannabis/Hemp:-

- a. The petitioner states that a commission by the name "Report of The Indian Hemp Drugs Commission" was appointed and produced its Report in 1893-94". It is a voluminous

document running into 3000 pages. The petitioner states that the said report studies the effects of production and consumption of Cannabis/hemp. The said commission included 6 members out of which, 3 were foreigners (British) and 3 natives.

- b. The petitioner states that the said report in “Chapter I, “Introductory”, Volume I, Para 1, page no. 1, reads as follows:-

“The Indian Hemp Drugs Commission was appointed under the orders of His Excellency the Governor-General in Council contained in the Resolution of the Government of India, Finance and Commerce Department, No. 2792-Ex., dated 3rd July 1893. In a despatch No. 36 (Revenue), dated 16th March 1893, Her Majesty's Secretary of State informed the Government of India that in answer to a question put in the House of Commons he had expressed his willingness to request the Government of India to appoint a Commission to inquire into the cultivation of the hemp plant in Bengal, the preparation of drugs from it, the trade in those drugs, the effect of their consumption upon the social and moral condition of the people, and the desirability of prohibiting the growth of the plant and the sale of ganja and allied drugs. In requesting the Government of India to appoint a Commission for the purposes stated, the Secretary of State desired that such instructions might be issued as would ensure that the inquiry should be thorough and complete. Lord Kimberley was of*

opinion that the inquiry could hardly be confined to Bengal, but should extend to the whole of India, and that the Commission should ascertain to what extent the existence of the hemp plant all over India affects the practical difficulty of checking or stopping the consumption of ganja as distinguished from other narcotic drugs prepared from the hemp plant, and whether there is ground for the statement that bhang is less injurious than ganja to consumers.”

- c. The petitioner states that the said report in “*Chapter II, Important Points Connected With The Natural History Of The Hemp Plant (Cannabis Sativa)*”, Volume I, in Para 19, on Page No. 15, observes as under:-

“.....The plant has been known since the sixth century B.C. in China, and is possibly indigenous on the lower mountain tracts. Bossier mentions it as almost wild in Persia, and it appears to be quite wild on the Western Himalayas and Kashmir, and it is acclimatized on the plains of India generally. Indeed, the intimate relation of its various Asiatic names to the Sanskrit bhānga would seem to fix the ancestral home of the plant somewhere in Central Asia.....”

- d. The petitioner states that the said report in “*Chapter V. - Methods of Cultivation and Matters Connected Therewith*”, Volume I, in Para 153, on page no. 59, the report observes on the Cannabis Plant that:-

“.....Bhang is the ancient name of the plant. It is also the name of the form of narcotic product which was earliest discovered, for it must have taken time to learn the art of isolating the female plant and so producing Ganja. Bhang is also the name of the most simple style of consumption, viz., by pounding and drinking which must have preceded smoking. Naturally, therefore, bhang is a more comprehensive term than ganja, and often includes it.....”

- e. The petitioner states that a Note by Mr. J.M. Campbell C.I.E., Collector of Land Revenue and Customs and Opium, Bombay, on the religion of Hemp, i.e., Cannabis, in the said, report in Volume III, Appendices, Miscellaneous, on page no. 250-252, makes the following observation:-

“To the Hindu the hemp plant is holy. A guardian lives in the bhang leaf. As the wife of Vishnu, the preserver, lives in the hysteria-curing tulsi, or Holy Basil, and as Shiva dwells in the dysentery-scaring bel, Ægle marmelos, so the properties of the bhang plant, its power to suppress the appetites, its virtue as a febrifuge, and its thought-bracing qualities show that the bhang leaf is the home of the great Yogi or brooding ascetic Mahadev. So holy a plant should have special rearing. Shiva explains to his wife, Parvati, how, in sowing hemp seed, you should keep repeating the spell 'Bhangi,' 'Bhangi,' apparently that the sound of that guardian name may scare the evil tare-sowing influences. Again, when the

seedlings are planted the same holy name must be repeated, and also at the watering which, for the space of a year, the young plants must daily receive. When the flowers appear the flowers and leaves should be stripped from the plant and kept for a day in warm water. Next day, with one hundred repetitions of the holy name Bhangi, the leaves and flowers should be washed in a river and dried in an open shed. When they are dry some of the leaves should be burnt with due repeating of the holy name as a jap or muttered charm. Then, bearing in mind Vāgdēvatā, or the goddess of speech, and offering a prayer, the dried leaves should be laid in a pure and sanctified place. Bhang so prepared, especially if prayers are said over it, will gratify the wishes and desires of its owner. Taken in the early morning such bhang cleanses the user from sin, frees him from the punishment of crores of sins, and entitles him to reap the fruits of a thousand horse-sacrifices. Such sanctified bhang taken at day break or noon destroys disease. Before the religious user of bhang stand the Ashtadēvatā or Eight Guardians with clasped hands ready to obey him and perform his orders. The wish of him who with pure mind pours bhang with due reverence over the Ling of Mahadev will be fulfilled. Such holiness and such evil-scaring powers must give bhang a high place among lucky objects. That a day may be fortunate the careful man should on waking look into liquid bhang. So any nightmares or evil spirits that may have entered into him

during the ghost-haunted hours of night will flee from him at the sight of the bhang and free him from their blinding influences during the day. So too when a journey has to be begun or a fresh duty or business undertaken it is well to look at bhang. To meet some one carrying bhang is a sure omen of success. To see in a dream the leaves, plant, or water of bhang is lucky; it brings the goddess of wealth into the dreamer's power. To see his parents worship the bhang-plant and pour bhang over Shiva's Ling will cure the dreamer of fever. A longing for bhang foretells happiness: to see bhang drunk increases riches. No good thing can come to the man who treads under-foot the holy bhang leaf. So evil-scaring and therefore luck-bringing a plant must play an important part in the rites required to clear away evil influences. During the great spirit time of marriage in Bombay among almost all the higher classes of Gujarat Hindus, of the Jain as well as of the Brahmanic sects, the supplies sent by the family of the bride to the bridegroom's party during their seven days' sojourn includes a supply of bhang. The name of the father who neglects to send bhang is held in contempt. Again, after the wedding, when the bridegroom and his friends are entertained at the house of the bride, richly-spiced bhang is drunk by the guests. The Gujarat Musalman bride before and after marriage drinks a preparation of bhang. Among the Pardeshi or North Indian Hindus of Bombay bhang is given not only at weddings, but the Pardeshi who fails to

give his visitor bhang is despised by his caste as mean and miserly. Another Great Spirit time during which bhang plays an important part is the time of war. Before the outbreak of a war and during its progress the Ling of Mahadev should be bathed with bhang. Its power of driving panic influences from near the god has gained for bhang the name of Vijayā, the unbeaten. So a drink of bhang drives from the fighting Hindu the haunting spirits of fear and weariness. So the beleaguered Rajput, when nothing is left but to die, after loosing his hair that the bhang spirit may have free entrance, drinks the sacramental bhang and rushing on the enemy completes his juhár or self sacrifice. It is this quality of panic-scaring that makes bhang, the Vijayā or Victorious, specially dear to Mahadev in his character of Tripur, the slayer of the demon Tripurasur. As Shiva is fond of bel leaves, as Vishnu is fond of tulsi leaves, so is Tripuresvar fond of bhang leaves. He who wishes to obtain his desires must constantly offer bhang to Tripuresvar. Bhang the cooler is a febrifuge. Bhang acts on the fever not directly or physically as an ordinary medicine, but indirectly or spiritually by soothing the angry influences to whom the heats of fever are due. According to one account in the Ayurveda, fever is possession by the hot angry breath of the great gods Brahma, Vishnu, and Shiva. According to another passage in the Ayurveda, Shankar or Shiva, enraged by a slight from his father-in-law Daksha, breathed from his nostrils the eight fevers that wither mankind. If the fever-

stricken performs the Vijayā abhishek, or bhang-pouring on the Ling of Shankar, the god is pleased, his breath cools, and the portion of his breath in the body of the fever-stricken ceases to inflame. The Kashikhanda Purana tells how at Benares, a Brahman, sore-smitten with fever, dreamed that he had poured bhang over the self-sprung Ling and was well. On waking he went to the Ling, worshipped, poured bhang and recovered. The fame of this cure brings to Benares sufferers from fever which no ordinary medicine can cure. The sufferers are laid in the temple and pour bhang over the Ling whose virtue has gained it the name Jvareshwar, the Fever-Lord. In Bombay many people sick of fever vow on recovery to pour bhang over a Ling. Besides as a cure for fever bhang has many medicinal virtues. It cools the heated blood, soothes the over-wakeful to sleep, gives beauty, and secures length of days. It cures dysentery and sunstroke, clears phlegm, quickens digestion, sharpens appetite, makes the tongue of the lisper plain, freshens the intellect, and gives alertness to the body and gaiety to the mind. Such are the useful and needful ends for which in his goodness the Almighty made bhang. In this praise of the hemp the Makhzan or great Greek-Arab work on drugs joins. Ganja in excess causes abscess, even madness. In moderation bhang is the best of gifts. Bhang is a cordial, a bile absorber, an appetiser, a prolonger of life. Bhang quickens fancy, deepens thought, and braces judgment. As on other guardian-possessed objects, the

cow, the Vedas, or the leaf of the bel tree, oaths are taken on the bhang leaf. Even to a truthful witness an oath on the bhang leaf is dreaded. To one who fore swears himself the bhang oath is death. So holy a plant must play a leading part in temple rites. Shiva on fire with the poison churned from the ocean was cooled by bhang. At another time enraged with family worries the god withdrew to the fields. The cool shade of a plant soothed him. He crushed and ate of the leaves, and the bhang refreshed him. For these two benefits bhang is Shankarpriya, the beloved of Mahadev. So the right user of bhang or of ganja, before beginning to drink or to smoke, offers the drug to Mahadev saying, lena Shankar, lena Babulnath: be pleased to take it Shankar, take it Babulnath. According to the Shiva Purana, from the dark fourteenth of Magh (January-February) to the light fourteenth of Ashadh (June-July), that is, during the three months of the hot weather, bhang should be daily poured over the Ling of Shiva. If not every day, bhang should be poured at least during the first and last days of this period. According to the Meru Tantra on any Monday, especially on Shravan (July-August) Mondays, on all twelfths or pradoshs, and on all dark fourteenths or shivratri, still more on the Mahashivratri or Shiva's Great Night on the dark fourteenth of Magh (January-February), and at all eclipses of the sun or moon, persons wistful either for this world or for the world to come should offer bhang to Shiva and pour it over the Ling. Not every

devotee of Shiva makes offerings of bhang. Such rites in Bombay are seldom performed except in the Bhuleswar and Babulnath temples and there only on special occasions. The bhang offered to Mahadev is without pepper or other spice. It is mixed with water, water and milk, or milk and sugar. It is poured over the Ling. According to some authorities the offerer should not touch the offered bhang. Temple ministrants Atits, Tapodhans, Bhojaks, Bhopis, Bharadis, Guravas alone should drink it. If there are no ministrants the remains of the offering should be poured into a well or given to cows to drink. Other authorities encourage the offerer to sip the bhang, since by sipping the bhang reaches and soothes the Shiva-Shakti or Shiva-spirit in the sipper. On certain special occasions during failures of rain, during eclipses, and also in times of war libations of bhang are poured over the Ling. Vaishnavas as well as Shaivas make offerings of bhang. The form of Vishnu or the Guardian to whom bhang is a welcome offering is Baladev, Balaram, or Dauji, the elder brother of Krishna. Baladev was fond of spirits, not of bhang. But Banias, Bhatias, and other high class Hindus, not being able to offer spirits, instead of spirits present bhang. In Bombay the offering of bhang to Baladev, unlike the special offerings to Shiva, is a common and everyday rite. Without an offering of bhang no worship of Baladev is complete. Unlike the plain or milk and sugared bhang spilt over the Ling, Baladev's bhang is a richly-spiced liquid which all present, including the

offerer, join in drinking. Such social and religious drinking of bhang is common in Bombay in the temple of Dauji in Kalyan Kirparam lane near Bhuleshwar. As in the higher class worship of Baladev the liquor offering has been refined into an offering of bhang so it is in the worship of Devi, Shiva's early and terrible consort. On any Tuesday or Friday, the two week-days sacred to Devi, still more during the Navratra or Nine Nights in Ashwin or September-October, those whose caste rules forbid liquor make a pleasing spiced bhang. And as in the worship of Baladev all present, worshipper and ministrant alike, join in drinking. Shitaladevi, the Cooler, the dread goddess of small-pox, whose nature, like the nature of bhang, is cooling, takes pleasure in offerings of bhang. During epidemics of small-pox the burning and fever of the disease are soothed by pouring bhang over the image of Shitaladevi. So for the feverishness caused by the heats especially to the old no cure equals the drinking of bhang. Unlike spirits the tempter to flesh bhang the craver for milk is pleasing to the Hindu religion. Even according to the strictest school of the objectors to stimulants, while to a high caste Hindu the penalty for liquor-drinking is death, no penalty attaches to the use of bhang, and a single day's fast is enough to cleanse from the coarser spirit of ganja. Even among those who hold stimulants to be devil-possessed penalty and disfavour attach to the use of hemp drugs only when they are taken with no religious object and without

observing the due religious rites. At the other extreme of Hindu thought from the foes to stimulants, to the worshippers of the influences that, raising man out of himself and above mean individual worries, make him one with the divine force of nature, it is inevitable that temperaments should be found to whom the quickening spirit of bhang is the spirit of freedom and knowledge. In the ecstasy of bhang the spark of the Eternal in man turns into light the murkiness of matter or illusion and self is lost in the central soul-fire. The Hindu poet of Shiva, the Great Spirit that living in bhang passes into the drinker, sings of bhang as the clearer of ignorance, the giver of knowledge. No gem or jewel can touch in value bhang taken truly and reverently. He who drinks bhang drinks Shiva. The soul in whom the spirit of bhang finds a home glides into the ocean of Being freed from the weary round of matter-blinded self. To the meaner man, still under the glamour of matter or *māyā*, bhang taken religiously is kindly thwarting the wiles of his foes and giving the drinker wealth and promptness of mind. In this devotion to bhang, with reverence, not with the worship, which is due to Allah alone, the North Indian Mussalman joins hymning the praises of bhang. To the follower of the later religion of Islam the holy spirit in bhang is not the spirit of the Almighty. It is the spirit of the great prophet Khizr or Elijah. That bhang should be sacred to Khizr is natural. Khizr is the patron saint of water. Still more Khizr means green, the revered colour of the

cooling water of bhang. So the Urdu poet sings 'When I quaff fresh bhang I liken its colour to the fresh light down of thy youthful beard.' The prophet Khizr or the Green prophet cries 'May the drink be pleasing to thee.' Nasir, the great North Indian Urdu poet of the beginning of the present century, is loud in the praises of his beloved Sabzi, the Green one. 'Compared with bhang spirits are naught. Leave all things thou fool, drink bhang.' From its quickening the imagination Musalman poets honour bhang with the title *Warak al Khiyall*, Fancy's Leaf. And the *Makhzan* or great Arab-Greek drug book records many other fond names for the drug. Bhang is the Joy-giver, the Sky-flier, the Heavenly guide, the Poor Man's Heaven, the Soother of Grief. Much of the holiness of bhang is due to its virtue of clearing the head and stimulating the brain to thought. Among ascetics the sect known as Atits are specially devoted to hemp. No social or religious gathering of Atits is complete without the use of the hemp plant smoked in ganja or drunk in bhang. To its devotee bhang is no ordinary plant that became holy from its guardian and healing qualities. According to one account, when nectar was produced from the churning of the ocean, something was wanted to purify the nectar. The deity supplied the want of a nectar-cleanser by creating bhang. This bhang Mahadev made from his own body, and so it is called *angaj* or body-born. According to another account some nectar dropped to the ground and from the ground the bhang plant sprang. It was because they used this

child of nectar or of Mahadev in agreement with religious forms that the seers or Rishis became Siddha or one with the deity. He who, despite the example of the Rishis, uses no bhang shall lose his happiness in this life and in the life to come. In the end he shall be cast into hell. The mere sight of bhang cleanses from as much sin as a thousand horse-sacrifices or a thousand pilgrimages. He who scandalises the user of bhang shall suffer the torments of hell so long as the sun endures. He who drinks bhang foolishly or for pleasure without religious rites is as guilty as the sinner of lakhs of sins. He who drinks wisely and according to rule, be he ever so low, even though his body is smeared with human ordure and urine, is Shiva. No god or man is as good as the religious drinker of bhang. The students of the scriptures at Benares are given bhang before they sit to study. At Benares, Ujjain, and other holy places yogis, bairagis and sanyasis take deep draughts of bhang that they may centre their thoughts on the Eternal. To bring back to reason an unhinged mind the best and cleanest bhang leaves should be boiled in milk and turned to clarified butter. Salamisri, saffron, and sugar should be added and the whole eaten. Besides over the demon of Madness bhang is Vijayā or victorious over the demons of hunger and thirst. By the help of bhang ascetics pass days without food or drink. The supporting power of bhang has brought many a Hindu family safe through the miseries of famine. To forbid or even seriously to restrict the use of so holy and

gracious a herb as the hemp would cause widespread suffering and annoyance and to the large bands of worshipped ascetics deep-seated anger. It would rob the people of a solace in discomfort, of a cure in sickness, of a guardian whose gracious protection saves them from the attacks of evil influences, and whose mighty power makes the devotee of the Victorious, overcoming the demons of hunger and thirst, of panic fear, of the glamour of Māyā or matter, and of madness, able in rest to brood on the Eternal, till the Eternal, possessing him body and soul, frees him from the haunting of self and receives him into the ocean of Being. These beliefs the Musalman devotee shares to the full. Like his Hindu brother the Musalman fakir reveres bhang as the lengthener of life, the freer from the bonds of self. Bhang brings union with the Divine Spirit. 'We drank bhang and the mystery I am He grew plain so grand a result, so tiny a sin.'

- f. The petitioner reading the above observations of Mr. J.M. Campbell, a foreigner, is greatly overjoyed and also stands flabbergasted. Petitioner states that observations of Mr. J.M. Campbell should surprise, and, deeply astonish us Indians, that a foreigner would show so much understanding about our way of life and our culture in those days, in favour of Cannabis/Bhang/Ganja.
- g. Petitioner states that above observations of Mr. J.M. Campbell, throws ample light on Cannabis, as it explains its religious, cultural significance,

medicinal benefits, and, also signifies the fact that Cannabis was always an integral part and parcel of almost daily life and culture of the inhabitants/ populace of our great nation in those days. So why make it illegal?

- h. The petitioner hence states that it is not only an illegality, but also a bizarre act on part of the state, to make Cannabis illegal, with such severe punishment, un-backed by any scientific, or medical reasons, or, any logical reasons whatsoever.
- i. The petitioner is producing herewith the concluding observations of the said commission in “*Chapter XVIII-Summary*”, Volume I, in Para 740, on page No. 359, which reads as under:-

“Total Prohibition of the cultivation of the hemp plant for narcotics, and of the manufacture, sale, or use of a drug derived from it, is neither necessary nor expedient in consideration of their ascertained effects, of the prevalence of the habit of using them, of the social and religious feeling on the subject, and of the possibility of its consumers to have recourse to other stimulants or narcotics which may be more deleterious.”

III. National Policy on Narcotic Drugs and Psychotropic Substances:-

- a. The petitioner states that, National Policy on Narcotic Drugs and Psychotropic Substances (National Policy for short) states that, Section 10 of the NDPS Act, 1985 read with section 8 of the Act

empowers the State Governments to license cultivation of cannabis for medical and scientific purposes.

- b.* The petitioner states that the said National Policy also observes that Medicinal use of cannabis has so far been extremely limited, and, confined to alternate medicine such as homeopathy and Ayurveda. The petitioner at this juncture humbly states that such an observation in the said National Policy should be backed by scientific evidence, and, not on mere assumptions or presumptions.
- c.* The petitioner states that if the Public Bodies are making the claim that Medicinal use of cannabis has so far been extremely limited, then why they have not replied satisfactorily, to the query of the petitioner, in his Right to Information Application.
- d.* The petitioner states that the said National Policy on Cannabis makes the following observation:-

 - i.* State Governments have actually not been licensing cultivation of cannabis,
 - ii.* Of late, there has been growing international interest among scientists in exploring possible medical uses of cannabis,
 - iii.* Cultivation of cannabis will not be permitted given its limited proven uses for medical purposes, &
 - iv.* Cultivation shall be permitted for research including trials of various varieties of cannabis.

- e. The petitioner humbly states that the observations made in the said National Policy are bereft of any scientific evidence, and, hence need to be relooked into, and, amended in relation to Cannabis Plant. Hereto annexed and marked as **Exhibit – L** is the certified true copy of the National Policy on Narcotic Drugs and Psychotropic Substances.

IV. Right to Information Act, 2005:-

- a. The petitioner states that the reply received from the National Institute of Nutrition is a blatant “case of plagiarism against the citizens of our great nation” i.e., directly copy-pasting information from a website having no jurisdiction, and, or bearing, on the citizens of our great nation, and bereft of any scientific evidence or research of their own. Petitioner states that such reply also contravenes Sec. 2 (j) of the Right to Information Act, 2005, which reads as under:-

Sec. 2 (j) - *"right to information" means the right to information accessible under this Act which is held by or under the control of any public authority and includes the right to—*

- i. inspection of work, documents, records;*
- ii. taking notes, extracts or certified copies of documents or records; taking certified samples of material;*
- iii. obtaining information in the form of diskettes, floppies, tapes, video cassettes or in any other electronic mode or through printouts where such information is stored in a computer or in any other device;"*

- b. The petitioner states that Sec. 3 the Right to Information Act, 2005, states that “*Subject to the provisions of this Act, all citizens shall have the right to information*”, and, if read with Sec 2 (j) should also mean to include information held by or under the control of any public authority.
- c. The petitioner thus humbly states that the reply given by the National Institute of Nutrition not only contravenes relevant provisions of the Right to Information Act, 2005, but is oppressive of the fundamental right, of not only the petitioner but the public at large, to seek and get proper information/ answer to a legitimate query.
- d. The petitioner states that the petitioner has already annexed the First Appeals he has preferred to the Legislative Department, and, the Central Board of Narcotics at **Exhibit – G colly**. The petitioner states that the reply given by both the public authorities, signify the fact that, said public bodies, seem to have forgotten, that we live in a welfare state, and, not in some fascist, totalitarian and dictatorial society.
- e. The petitioner states that that said public bodies need to be reminded that we all live in a democracy, which is not an illusion, with paramount importance being given to the Socialist Principle enshrined in the Preamble of the Constitution, and where the government is for, of and by the people.
- f. The petitioner states that the fundamental right of the citizens of our great nation cannot be abridged as “We the People” of this great nation have the right to question who, why, what and whether, the acts of the state, especially when the question

relates to the health of the citizens, in this case referring to the reply, given by Legislative Department, Ministry of Law and Justice.

- g.* The petitioner states that a legitimate question of the petitioner also does not reduce a public authority to a status of some kind of unpaid consultant; in this case petitioner refers to the reply, given by the Appellate Authority, Central Board of Narcotics.

**V. The Constitution of India - Article 13(2), 21, 47, 253
Entry 13 List I Schedule VII, of The Constitution of
India:-**

- 1)** Article. 13(2) of the Constitution of India reads as under:-

Article 13 (2) - Laws inconsistent with or in derogation of the fundamental rights:-

“The State shall not make any law which takes away or abridges the rights conferred by this Part and any law made in contravention of this clause shall, to the extent of the contravention, be void.”

- a.* The petitioner states that on reading Article. 13(2) it becomes abundantly clear that the petitioner is possessed of a fundamental right as a citizen, and, hence has applied to this Hon’ble Court in the petitioners own, and, greater public interest, to decriminalize Cannabis. As failure of the public authorities to give satisfactory answers to petitioners Right to Information query; and, all the medicinal benefits of Cannabis, the petitioner has produced, in support of this Public Interest Litigation, to support the petitioners claim in greater public

interest, to be granted relief by the Hon'ble Court that the provisions relating to Cannabis contained in The Narcotic Drugs and Psychotropic Substances Act, 1985, and the notification issued there under, and, inclusion of Cannabis in National Policy on Narcotic Drugs and Psychotropic Substances, be declared, *ultra vires*, as being arbitrary, and, violative of fundamental rights which should also mean to include, right to life, to grow, and, consume one's own medicine i.e., Cannabis.

2) Article 13(2) r.w. Article 253, of Constitution of India and Judicial Review:-

a. The petitioners at this point is placing reliance upon the observations of the Hon'ble Supreme Court in *Dadu @ Tulsidas Vs. State of Maharashtra (2000) 8 SCC 437, 453 (Para 23)*. The petitioner states that the said observation which the petitioner relies on, are of great paramount importance, in matters, which involves legislation, that have been enacted to give effect to international agreements, as is required under Article 253, of the Constitution. The observations of the Hon'ble Supreme Court that would be tantamount in deciding this matter are as under:-

".....Offending Section is stated to have been enacted in discharge of the international obligations as claimed by the concerned Minister in the Parliament. This submission also appears to be without any substance. Countries, parties to the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988, in the 6th Plenary Meeting held on 19th December, 1988 resolved to adopt

means and measures to curb the rising trend in the illicit production of demand for and traffic in narcotic drugs and psychotropic substances which posed a serious threat to the health and welfare of the human beings and adversely affected the economic, cultural and political foundations of the Society. The member countries, inter alia agreed to adopt such measures as may be necessary to establish as criminal offences in its domestic law when committed intentionally:

(a) (i) The production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of any narcotic drug or any psychotropic substance contrary to the provisions of the 1961 Convention, the 1961 Convention as amended or the 1971 Convention;

.....ii) The cultivation of opium poppy, coca bush or cannabis plant for the purpose of the production of narcotic drugs contrary to the provisions of the 1961 Convention and 1961 Convention as amended;

.....A perusal of the agreement of the Convention to which India is claimed to be a party, clearly and unambiguously show that the court's jurisdiction with respect to the offences relating to narcotic drugs and psychotropic substances was never intended to be ousted, taken away or curtailed. The Declaration was made, subject to "constitutional principles and the basic concepts of its legal system prevalent in the polity of a member country..... The judiciary is constituted the ultimate interpreter of

the Constitution and is assigned the delicate task of determining the extent and scope of the powers conferred on each branch of the Government, ensuring that action of any branch does not transgress its limits. A Constitution Bench of this Court in S.P. Sampath Kumar v. Union of India [1987 (1) SCC 124] held that "it is also a basic principle of the Rule of Law which permeates every provision of the Constitution and which forms its very core and essence that the exercise of power by the executive or any other authority must not only be conditioned by the Constitution but also be in accordance with law and it is the judiciary which has to ensure that the law is observed and there is compliance with the requirements of law on the part of the executive and other authorities. This function is discharged by the judiciary by exercise of the power of judicial review which is a most potent weapon in the hands of the judiciary for maintenance of the Rule of Law. The power of judicial review is an integral part of our constitutional system and without it, there will be no government of laws and the Rule of Law would become a teasing illusion and a promise of unreality. Again in S.S. Bola & Ors. v. B.D. Sardana & Ors. [AIR 1999 SC 3127] it was reiterated that judicial review is the basic feature upon which hinges the checks and balances blended with hind sight in the Constitution as people's sovereign power for their protection and establishment of egalitarian social order under the rule of law. The judicial review was, therefore, held to be an integral part of the Constitution as its basic structure....."

- r. The petitioner states that from the above observation of the Hon'ble Supreme Court it

becomes clear that this Hon'ble Court has the power of judicial review, using which it can declare, the relevant provisions relating to Cannabis as contained in The Narcotic Drugs and Psychotropic Substances Act, 1985, as being, *ultra vires*, the Constitution, as Cannabis, possess all the qualities of a versatile medicine, as the petitioner has shown it to be.

- b. The petitioner states that any law or any provision of a given enactment, in this case provisions relating to Cannabis contained in The Narcotic Drugs and Psychotropic Substances Act, 1985, and inclusion of Cannabis in National Policy on Narcotic Drugs and Psychotropic Substances without any medical, and, or scientific backing, or logical reasons, is highly oppressive, is in derogation and silently continues to violate the fundamental rights guaranteed by the Constitution of India, 1950. Petitioner states that fundamental rights are basic inherent rights, and, rights of the public at large, with an imperative necessity to be protected at all costs.
- c. The petitioner states that The Narcotic Drugs and Psychotropic Substances Act, 1985, deal's with various other substances, apart from Cannabis. The petitioner vehemently states that the petitioner is only and only concerned with Cannabis. The respondents have failed to provide scientific or logical reasons, and, hence a illegality, as such a versatile medicine has been made out of bounds to citizens.

- d. The petitioner placing reliance on his research, and applying the doctrine of severability states that this Hon'ble Court is empowered to declare all the provisions in The Narcotic Drugs and Psychotropic Substances Act, 1985, in relation to Cannabis as being unconstitutional on account of inconsistency with fundamental rights. The petitioner states that doing so, in public interest, shall not affect the operation of the remaining provisions of The Narcotic Drugs and Psychotropic Substances Act, 1985, in any manner.
- 3) Article 13(2) and Article 253 r.w. Entry 13 List I Schedule VII of Constitution of India and Judicial Review:-
- a. The petitioner states that the petitioner has discussed the observations of Hon'ble Supreme Court *Dadu @ Tulsidas Vs. State of Maharashtra (2000) 8 SCC 437*, in relation to Article 253, and would like to take this opportunity of also refer to Entry 13 List I Schedule VII, which deals with "*participation in international conferences, associations and other bodies and implementing of decisions thereat*".
 - b. The petitioner states with all due respect, that no matter what conventions are signed, or what articles of the said convention are ratified, or no matter what reservations are raised against a particular article, the fact remains, keeping in view the observations of Hon'ble Supreme Court *Dadu @ Tulsidas Vs. State of Maharashtra (2000)*

8 SCC 437, that no legislation or a provision in a law can be enacted which violate or derogate against fundamental rights of citizens, as Cannabis is included, in The Narcotic Drugs and Psychotropic Substances Act, 1985, and National Policy on Narcotic Drugs and Psychotropic Substances without basing it on any scientific, logical and or medical evidence, stating its harmful effects on humans.

- 4) The petitioner states that Article 21 of the Constitution of India reads as under:-

“Art. 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.”

- a. The petitioner states that Article 21 imposes a negative duty on the state, i.e, not to interfere with the life and liberty of an individual without the sanction of law. The petitioner thus states that when a law or any provision of a particular law/ enactment, relates to health of the citizens it has to be compulsorily be backed by scientific evidence, in the absence of which such law or a provision in a law would and should fail to qualify as law.
- b. The petitioner humbly states that any sanction of law should be backed by empirical/scientific evidence, in this case, the scientific basis of inclusion of Cannabis in The Narcotic Drugs and Psychotropic Substances Act, 1985, the notification there under, and, National Policy on Narcotic Drugs and Psychotropic Substances.

- c. The petitioner states that the respondent's inability to give satisfactory answer's, stands in, direct, and, continued, violation of Article 21.
- d. The petitioner states that there is immediate need to provide Cannabis as medicine to all those who suffer, in relation to diseases mentioned in this petition, which can be easily be cured, or administration of which will at least help reduce their pain.
- e. The petitioner states that right to life should also mean to include, the right to put in one's body freely, anything of one's choice, unless prohibited to do so, backed by proper scientific evidence.
- f. The petitioner states that a plant (Cannabis) that finds a mention in the Atharvaveda, (which the petitioner shall refer to later on), hence was always an integral part of our culture. The petitioner has already produced enough evidence, and, shown that Cannabis has medicinal health benefits, without any adverse reactions on the human body.
- g. The petitioner states that the petitioner has relied on the principles as are enshrined in the Preamble of the Constitution of India, supreme law of the land, which seeks to promote Social Justice, Liberty, Equality and Fraternity. The petitioner, thus, states that the words Social Justice, Liberty, Equality and Fraternity should also mean to include the right of every single individual to good health, with all the liberty in the world (*jus ad rem*) to grow one's own medicine

as a personal choice, which can be easily fulfilled by removing the illegal ban on Cannabis.

- h. The Petitioner, therefore, states that, based on the all the beneficial effects of the Cannabis Plant to cure ailments, which have been mentioned in the forgone Para's while referring to the Indian Hemp Commission Report 1893-94, and also to more research which the petitioner shall refer to later in this petition, the petitioner has approached this Hon'ble Court with a humble prayer, to legalize Cannabis, for the benefit of citizens of this great nation and for all those who arrive in our country as medical tourists.
 - i. The petitioner at this juncture would like to remind the Hon'ble Court on the reply received from the National Institute of Nutrition. The petitioner states that the Hon'ble Court would appreciate that the said reply annexed at **Exhibit - D colly**, and, also **Exhibit - G colly** by Appellate Authority, Legislative Department, M/o. Law and Justice and the Asst. Narcotics Commissioner is arbitrary, oppressive and in continued derogation to Article 21, a enforceable fundamental right of the petitioner, which now the petitioner is using for public good.
- 5) The petitioner states that Article 47, Chapter IV, Directive Principles of State Policy reads as under:-

“Art. 47. *The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of*

intoxicating drinks and of drugs which are injurious to health.”

- a. The petitioner states that Hon’ble Supreme Court in *Ratlam Municipal Council v. Vardhichand* AIR 1980 SC 1622 (para 24): (1980) 4SCC 162 has observed as under:-

“The state will realize that Art. 47 makes it a paramount principle of governance that steps are taken for the improvement of public health as amongst its primary duties.”

- b. The petitioner states that the petitioner at this juncture would like to again bring to the Hon’ble Courts attention the plagiarized reply of the National Institute of Nutrition, aforementioned, and annexed as **Exhibit – D colly**.
- c. The petitioner most categorically would like to state, without sounding disrespectful in any manner whatsoever, that, it is the objective of the National Institute of Nutrition, which coincide with the National health priorities, such as control and management of communicable diseases, fertility control, maternal and child health, control of nutritional disorders, developing alternative strategies for health care delivery, containment within safety limits of environmental and occupational health problems; research on major non-communicable diseases like cancer, cardiovascular diseases, blindness, diabetes and other metabolic and haematological disorders; mental health research and drug research (including traditional remedies). All these efforts are undertaken with a view to reduce the total burden

of disease and to promote health and well-being of the population.

- d. The petitioner states that reading the objective of the National Institute of Nutrition and their plagiarized reply marked as **Exhibit – D colly**, this Hon'ble Court shall find that the National Institute of Nutrition has failed to fulfill its objective, and, collectively with other respondents referring to their replies, have contravened Article 47, contained in the Directive Principles of State Policy.

VI. Botanical/Scientific Facts about Cannabis Plant:-

- a. The petitioner states that the Cannabis Plant belongs to the Cannabaceae Family, and is a flowering plant. The Cannabaceae Family of flowering plants includes 170 species which also includes Cannabis and includes Cannabis Sativa L., Cannabis Indica and Cannabis Ruderalis.
- b. The petitioner states that variant of Cannabis i.e., Cannabis Sativa L., where, 'Cannabis' is the name given to the plant itself. 'Sativa' simply means 'sown', and is used to indicate the common or cultivated form of a plant. The 'L.' refers to Carolus Linnaeus, the Swedish botanist who first gave this common yet celebrated herb its scientific classification in 1753. Cannabis Sativa often produces a higher proportion of THC Tetrahydrocannabinol, the significance of which petitioner speaks of later in this petition.
- c. The petitioner states that European botanist Lamarck, received samples, from India and dubbed the plant "*Cannabis Indica*" in recognition of that fact.
- d. Petitioner states that Common Effects and Properties of Indica Strains is that Indica Strains is a rich source

of the cannabinoids, THC, CBD and CBN. While compared to its other cannabinoids, Cannabis Indica often contains significant levels of all three. Petitioner states that CBD stands for Cannabidiol and CBN stands for Cannabinol the significance of which petitioner speaks of later in this petition.

VII. Endocannabinoid System:-

- a. The petitioner has relied on observations of Dr. Dustin Sulak, Doctor of Osteopathy, Maine Integrative Healthcare, Manchester, United States, who gives an introduction to the endocannabinoid system as under:-

“Named after the plant (Cannabis) that led to its discovery, is perhaps the most important physiologic system involved in establishing and maintaining human health. Endocannabinoids and their receptors are found throughout the human body: in the brain, organs, connective tissues, glands, and immune cells. In each tissue, the cannabinoid system performs different tasks, but the goal is always the same: homeostasis, the maintenance of a stable internal environment despite fluctuations in the external environment.”

VIII. Cannabinoid Receptors:-

- a. The petitioner has relied on observations of Dr. Dustin Sulak, Doctor of Osteopathy Maine Integrative Healthcare, United States, who explains it as under:-

“Cannabinoid receptors are present throughout the body, embedded in cell membranes, and are believed to be more numerous than any other

receptor system. When cannabinoid receptors are stimulated, a variety of physiologic processes ensue. Researchers have identified two cannabinoid receptors: CB1, predominantly present in the nervous system, connective tissues, gonads, glands, and organs; and CB2, predominantly found in the immune system and its associated structures. Many tissues contain both CB1 and CB2 receptors, each linked to a different action. Researchers speculate there may be a third cannabinoid receptor waiting to be discovered.”

- b. Hereto annexed and marked as **Exhibit - O** is a certified true copy Introduction to the Endocannabinoid System from the website norml.org, explaining the importance of functioning cannabinoid system for good health.

IX. Cannabinoids- THC, CBD and CBN:-

- a. **THC** - The petitioner states that THC stands for Tetrahydrocannabinol (THC), which is the best known cannabinoid. It occurs naturally in the plant. When THC connects to the CB1 or CB2 cannabinoid receptor site on the cancer cell, it causes an increase in ceramide synthesis, which drives cell death, helping cure cancer.
- b. **CBD** - The petitioner states that CBD i.e., Cannabidiol is the second most prominent compound found in the cannabis plant. Many of the medical benefits of cannabis are attributed to the CBD content of the medicine. It has been found to have strong anti-inflammatory and anti-convulsive (anti-spasmodic) properties. The petitioner is annexing herewith a video by Sunil Kumar Aggarwal, M.D, Ph.D, Physican Scientist, Medical Geographer, Associate Member of the

New York Academy of Medicine and Senior Resident Physican at Large Academic Medical Center in New York City, as **Exhibit - P**.

- c. **CBN**- The petitioner states that as the cannabis plant gets older THC breaks down to CBN, and hence CBN i.e., Cannabinol, does not occur naturally in the Cannabis Plant and is found to have a sedative effect.

X. Cannabis Oil an extract of Cannabis Plant and Cure for Cancer:-

- a. The petitioner states that the petitioner has already mentioned that the petitioner is not a Doctor or a Medical Professional, but is an Advocate.
- b. The petitioner states that the petitioner is reiterating said fact again, because the petitioner has relied heavily on the website cureyourowncancer.org, apart from other resources, while carrying out his research, as to how consumption of Cannabis can help cure cancer and many other diseases.
- c. The petitioner states that the petitioner at this juncture would like to apprise this Hon'ble Court as to how Cannabis Oil helps cure cancer and has no side effects like what Chemo Therapy can do to a cancer patient.

XI. What is Cannabis Oil: -

- a. Cannabis oil is a thick, sticky, resinous substance made up of a concentration of cannabinoids, such as THC and CBD, extracted from the cannabis plant (Cannabis Sativa or Cannabis Indica).

- b. Cannabis oil is a cannabis based product obtained by separating the resins from cannabis flowers using a solvent extraction process.
- c. Cannabis oil is the most potent of three main cannabis products, which are the actual cannabis flower (marijuana), resin (hashish), and oil (cannabis oil). Cannabis oil is the most concentrated form of the three main cannabis products. That is what makes cannabis oil the most potent.

XII. How Cannabis Oil helps kill Cancer Cells:-

- a. Bio-Chemist Dennis Hill of cureyourowncancer.org, speaks about the said fact as under:-

“.....In every cell there is a family of interconvertible sphingolipids that specifically manage the life and death of that cell. This profile of factors is called the “Sphingolipid Rheostat.” If endogenous ceramide (a signaling metabolite of sphingosine-1-phosphate) is high, then cell death (apoptosis) is imminent. If ceramide is low, the cell is strong in its vitality. Very simply, when THC connects to the CB1 or CB2 cannabinoid receptor site on the cancer cell, it causes an increase in ceramide synthesis which drives cell death.....” - Bio-Chemist Dennis Hill’s observation when he speaks about what keeps cancer cells alive.

- b. While speaking about the endocannabinoid system Bio-Chemist Dennis Hill observes that *“.....Our own endocannabinoid system covers all cells and nerves; it is the messenger of information flowing between our immune system and the central nervous system (CNS). It is responsible for neuro-protection, and micro-manages the immune system. This is the primary*

control system that maintains homeostasis; our well being.”

- c. Bio-Chemist Dennis Hill concludes his observation with the following comments:-

“.....This brief survey touches lightly on a few essential concepts. Mostly I would like to leave you with an appreciation that nature has designed the perfect medicine that fits exactly with our own immune system of receptors and signaling metabolites to provide rapid and complete immune response for systemic integrity and metabolic homeostasis.”

XIII. List of other diseases cured by Marijuana Consumption:-

Sr. No	Disease & Effects	Beneficial Effects on use of Marijuana
1.	Lung Function	A study published in Journal of the American Medical Association on 11 th January 2012, found that Tobacco smokers lost lung function over time, but pot users actually showed an increase in lung capacity.
2.	Epileptic Seizures	A study published in Journal of Pharmacology and Experimental Therapeutics on 03 rd September 2003, found that Cannabinoids like the active ingredients in marijuana, tetrahydrocannabinol (THC), control seizures by binding to the brain cells responsible for controlling excitability and regulating relaxation.

3.	<p style="text-align: center;">Dravet Syndrome</p> <p>Effects: causes seizures and severe developmental delays.</p>	<p>The doctors who recommended this treatment say that the cannabidiol in the plant interacts with the brain cells to quiet the excessive activity in the brain that causes these seizures. As was also found by Dr. Sanjay Gupta (US Citizen) during his research for CNN Special Documentary “Weed” annexed as Exhibit - O Colly herewith.</p>
4.	<p style="text-align: center;">Chemotherapy</p>	<p>Cancer patients being treated with chemo suffer from painful nausea, vomiting, and loss of appetite. This can cause additional health complications. Marijuana can help reduce these side effects, alleviating pain, decreasing nausea, and stimulating the appetite. As was also found by Dr. Sanjay Gupta (US Citizen) during his research for his CNN Special Documentary “Weed” annexed as Exhibit - herewith.</p>
5.	<p style="text-align: center;">Alcoholism</p> <p>Effects: Alcoholism involves disruptions in the endocannabinoid system.</p>	<p>Research in Harm Reduction Journal, 03rd December 2009, shows that some people use marijuana as a less harmful substitute for alcohol, prescription drugs, and other illegal drugs. Some of the most common reasons for patients to make that substitution are the less adverse side effects from marijuana and the fact that it is less likely to cause withdrawal problems.</p>

6.	<p>Cancer</p>	<p>1. CBD (Cannabidiol) may help prevent cancer from spreading, researchers at California Pacific Medical Center in San Francisco reported in 13th December 2012.</p> <p>2. Cannabidiol stops cancer by turning off a gene called Id-1, the study, published in the journal Molecular Cancer Therapeutics on 05th September 2007, found. Cancer cells make more copies of this gene than non-cancerous cells, and it helps them spread through the body and;</p> <p>3. Cancer cells in the lab that had high expression levels of Id-1 and after treating them with cannabidiol. After treatment the cells had decreased Id-1 expression and were less aggressive spreaders.</p>
7.	<p>Alzheimer's Disease</p> <p>Effects: Long term loss of the ability to think and reason clearly affecting persons daily functioning.</p>	<p>A study published by The National Center for Biotechnology (USA) on 06th October 2008, found that THC, the active chemical in marijuana, slows the formation of amyloid plaques by blocking the enzyme in the brain that makes them. These plaques are what kill brain cells and cause Alzheimers.</p>
8.	<p>Multiple Sclerosis</p>	<p>A study published in the Canadian Medical Association Journal on 14th May 2012 when Dr. Jody Corey-Bloom studied</p>

		<p>30 multiple sclerosis patients with painful contractions in their muscles. These patients didn't respond to other treatments, but after smoking marijuana for a few days they were in less pain.</p> <p>The THC in the pot binds to receptors in the nerves and muscles to relieve pain. Other studies suggest that the chemical also helps control the muscle spasms.</p>
09.	<p>Leeuwenhoek's Disease</p> <p>Effects: Causes non-stop spasming in the abdominal muscles which are not only painful, but interfere with breathing and speaking.</p>	<p>Smoking marijuana is able to calm the attacks almost immediately, as it calms the muscles of the diaphragm. As was also found by Dr. Sanjay Gupta (US Citizen) during his research for his CNN Special Documentary Weed annexed as Exhibit - O Colly herewith.</p>
10.	<p>Hepatitis - C Infection</p>	<p>A October 2006 study in the European Journal of Gastroenterology and Hepatology found that 86 percent of patients using marijuana successfully completed their Hep C therapy, while only 29 percent of non-smokers completed their treatment, possibly because the marijuana helps lessens the treatments side effects.</p> <p>Marijuana also seems to improve the treatment's effectiveness: 54 percent of Hep-C patients</p>

		smoking marijuana got their viral levels low and kept them low, in comparison to only 8 percent of non smokers.
11.	<p>Inflammatory bowel diseases like Crohn's Disease and Ulcerative Colitis</p> <p>Effects: Abdominal pain, vomiting, diarrhea, rectal bleeding, severe internal cramps/muscle spasms in the region of the pelvis and weight loss. Anemia is the most prevalent extra-intestinal complication of inflammatory bowel disease.</p>	<p>Institute of Gastroenterology and Liver Diseases, Chaim Sheba Medical Center (Israel), stated the following in their January 2012 "<i>Digestion</i>" article, "Impact of Cannabis Treatment on the Quality of Life, Weight, and Clinical Disease Activity in Inflammatory Bowel Disease Patients: A Pilot Prospective Study":-</p> <ol style="list-style-type: none"> 1. <i>"In the present preliminary prospective study, we have found that treatment with inhaled cannabis improves quality of life in patients with long-standing CD [Crohn's disease] and UC [ulcerative colitis]. Treatment was also shown to cause a statistically significant rise in patients' weight after 3 months of treatment, and improvement in clinical disease activity index in patients with CD.</i> 2. <i>Moreover, the data demonstrated a statistically significant improvement in almost all aspects of patients' daily life. After 3 months' treatment with</i>

		<p><i>inhaled cannabis, patients stated an improvement in their health status, their ability to perform daily activities and their ability to maintain social life. Patients reported a statistically significant physical pain reduction during treatment, as well as improvement in mental distress...</i></p> <p>3. <i>None of our patients complained of any side effect that disturbed their working ability. In fact, as was shown in the results, there was a statistically significant improvement in patients' ability to work after treatment."</i></p>
12.	Arthritis	<p>The study conducted in 09th November 2005, funded by GW Pharmaceuticals, which makes Sativex (a cannabinoid medicine), found patients who had taken the CBM (cannabis-based medicine) had statistically significant improvements in pain on movement, pain at rest, quality of sleep, inflammation, and intensity of pain.</p>
13.	Metabolism	<p>A study published on 16th May 2013 in the American Journal of Medicine suggested that pot smokers are skinnier than the average person and have healthier</p>

		metabolism and reaction to sugars, even though they do end up eating more calories.
14.	<p>Systemic Lupus Erythematosus</p> <p>Effects: The body starts attacking itself for some unknown reason.</p>	A team of University of South Carolina researchers led by Mitzi Nagarkatti, Prakash Nagarkatti and Xiaoming Yang found that chemicals in marijuana seem to have a calming effect on the immune system, which may be how it helps deal with symptoms of Lupus. Their research has been published online in the <i>Journal of Biological Chemistry</i> and is dated 19 th May 2014, and, available on Science Daily, dated 02.06.2014.
15.	<p>Parkinson's Disease</p>	Research from Israel shows that smoking marijuana significantly reduces pain and tremors and improves sleep for Parkinson's disease patients. Particularly impressive was the improved fine motor skills among patients. The said finding can be found in the CNN Special Documentary "Weed" annexed at Exhibit – O Colly .
16.	<p>Post Traumatic Stress Disorder (PTSD)</p>	Naturally occurring cannabinoids, similar to THC, help regulate the system that causes fear and anxiety in the body and brain. The said finding can be found in the a CNN Special Documentary "Weed" annexed at Exhibit – O Colly .
17.	<p>Brain Damage caused by Stroke</p>	Research dated 03 rd December 2013, from the University of Nottingham shows that

		<p>marijuana may help protect the brain from damage caused by stroke, by reducing the size of the area affected by the stroke — at least in rats, mice, and monkeys.</p> <p>This isn't the only research that has shown neuroprotective effects from cannabis. Some research shows that the plant may help protect the brain after other traumatic events, like concussions.</p>
18.	<p>Brain Damage caused by Concussions and Trauma</p>	<p>A study dated 19th August 2013, in the journal Cerebral Cortex showed that in mice, marijuana lessened the bruising of the brain and helped with healing mechanisms after a traumatic injury.</p>
19.	<p>Brain Tumours</p>	<p>Specialists at St George's, University of London, studied the treatment of brain cancer tumours in the laboratory and discovered that the most effective treatment was to combine active chemical components of the cannabis plant which are called cannabinoids. The said research can be referred to on Science Daily is dated 14th November 2014.</p>
20.	<p>HIV Human Immunodeficiency Virus</p>	<p>Mount Sinai School of Medicine researchers have discovered that marijuana-like chemicals trigger receptors on human immune cells that can directly inhibit a type of human immunodeficiency virus</p>

	(HIV) found in late-stage AIDS, according to new findings published on 20 th March 2012.
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- a. The petitioner states that from the above it can be seen that use of Cannabis helps the patient to either cure or reduce the effect of the disease, and, hence would like to know in his own private and public interest, the grounds on which it has been made illegal.
- b. The petitioner states that, even if, the entire research presented by the petitioner is refuted/ discarded, about which the petitioner is not worried at all, the fact still remains, to make a plant (Cannabis) illegal, without basing it on a scientific or medicinal or logical reasons, as can be seen from the replies of the respondents, which amounts to an excess, and hence, *ultra vires*, the provisions of Constitution of India.
- c. The petitioner states that the petitioner is producing the documentary “Weed” a CNN Special Documentary by Dr. Sanjay Gupta, video by Molecular-biologist Dr. Christina Sanchez, on “Endocannabinoid System and how cannabis helps kill cancer cells, and, therapeutic effects of Cannabis”, “Directions for making Cannabis Oil at Home”, video on how to “Cure Skin Cancer with Cannabis oil”, video explaining cannabis oil cures cancer, a video explaining with “Scientific Explanation on How and Why Cannabis can Cure Cancer”, video explaining the action of “Cannabinoids on Cancer Cells”, video in which “Dr. Robert Melamede explains as to how Cannabis cures many types of cancer”, video explaining “The Action of Cannabinoids on Cancer Cells”. The said videos are available on the same website cureyourowncancer.org, and all the videos are collectively annexed at **Exhibit - O colly**.

- d. The petitioner is also producing another documentary “Run From The Cure” a true story of a Canadian man Mr. Rick Simpson, who Rediscovered Cannabis as a Cure for Cancer and many other Diseases. Rick Simpson cured his own Skin Cancer "Basal Cell Carcinoma" using 100% Natural THC containing Hemp Oil. The petitioner states that he has produced this documentary for educational reasons, in public interest, and to support scientifically proven health benefits of Cannabis. The petitioner does not in any manner, support, or, vouch for, the views of the presenter, which are his personal observations, in respect to the Political and Hon'ble Judicial system of Canada, a sovereign state with a power to make its own laws, if found to be offensive in any manner. Hereto annexed and marked as **Exhibit - P** is the said documentary.
- d. The petitioner states that the petitioner has read an absolutely incredible book by Mr. Todd McCormick who was given Cannabis/Marijuana by his mother, illegally, at age nine, which helped him cure his own Cancer. The book is titled “How to Grow Medical Marijuana”, edited by Mr. Peter McWilliams, published in 1998, by Medical Marijuana Press, 8159 Santa Monica Boulevard, Los Angeles, California 90046. The said book is easily available over the internet.
- e. The petitioner states that the petitioner is referring to the abovementioned book as it is a true story of Mr. Todd McCormick, who had a series of tumors known as Histiocytosis X. Science knows this to be a benign tumor of childhood that usually goes away on its own. When Todd McCormick was two, unfortunately, medical science treated Histiocytosis X as a malignant cancer requiring aggressive treatment. This included chemotherapy, radiation, and surgery—all of which

were inflicted on young Todd nine times between the ages of two and ten due to which Mr. Todd McCormick suffered many complications. Furthermore, Mr. Todd McCormick's mother started giving him medical marijuana, illegally, for the nausea of chemotherapy and radiation when Mr. Todd McCormick was nine. Mr. Todd McCormick writes that, he never would have survived that bout with chemotherapy, his eighth, without marijuana. Kids on his ward were dying of malnutrition and dehydration brought on by nausea, yet Mr. Todd McCormick retained a healthy appetite and as importantly, he thinks a healthy attitude.

- f. The petitioner is producing certain relevant extracts from the abovementioned book to throw some more light on the Cannabis Plant and cannabinoids as are explained by the author i.e., Mr. Todd McCormick who refers to Cannabis as Medical Marijuana, as follows:-

"...that medical marijuana is one of the most advanced and versatile plants in the entire Plant Kingdom. Marijuana has a male plant and a female plant—very rare in botany. Most plants have both sexes in the same plant." – Pg.no.23.

".....Because there are two sexes, medical marijuana can be bred, the offspring taking on the characteristics of both mama and papa. In more than 5,000 years of human medical use, this breeding has led to an almost uncountable (more than 30,000, at least) variations in the medical marijuana plant." – Pg.no.23.

".....The chemical compounds responsible for the intoxicating and medicinal effects are found mainly in a sticky golden resin exuded from the flowers of the female plants." - Pg.no. 117.

“.....The marijuana plant contains more than 460 known compounds, of which more than 60 have the 21-carbon structure typical of cannabinoids. The only cannabinoid that is both highly psychoactive and present in large amounts is tetrahydrocannabinol, also known as delta-1-THC, delta- 9-THC, or simply THC.” – Pg.no. 119.

- g. The petitioner states that Mr. Todd McCormick on page no. 91 notes that Medical marijuana patients develop this uncanny sense of when to stop, automatically self-regulating dosage. That’s why nobody overdoses. In all of recorded history, not one person has ever died from marijuana. Hereto annexed and marked as **Exhibit – Q** is a video explaining manner of pollinating Marijuana Plant.
- h. The petitioner states that reading the abovementioned book by Mr. Todd McCormick explains the importance of Marijuana/ Cannabis sexing which is as follows:-

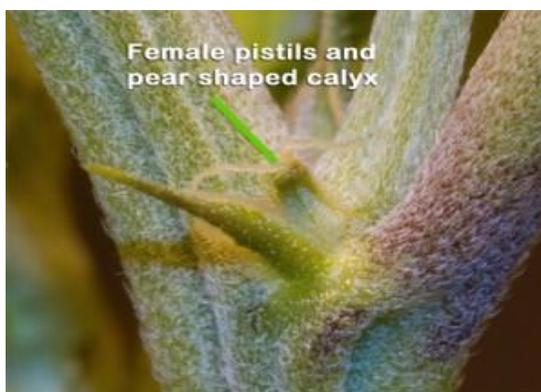
“Sexing merely means discovering a plant’s sex. Medicinal flowers grow only on the female plant. Males are unwanted not only for their unusable flowers, but because they will pollinate the females, something you want to avoid at all costs. A female flower with seeds is not nearly as desirable as a seedless female, called sinsemilla.” – Pg.no. 179.

XIV. Cannabis Sexing:-Male and Female:-

- a. The petitioner in order to understand what Cannabis male and female plant looks, as it is illegal to grow, the petitioner having never seen one, and, in his quest for knowledge and in greater public interest is herewith

producing images of the Female, and Male, Cannabis Plant as under:-

**Female Cannabis Plant
(as seen below)**



**Male Cannabis Plant
(as seen below)**



XV. Cannabis Effect on Pregnant Woman:-

- a. The petitioner states that Melanie Dreher, who was the dean of nursing at Rush Medical Center in Chicago, did a study in Jamaica. It was actually published in the official American Journal of Pediatrics in February 1994, but now it's re-circulating because of all the interest in the neuro-protective properties.
- b. The petitioner states that, she studied women during their entire pregnancy, and then studied the babies about a year after birth. She studied a group of women who did smoke cannabis during pregnancy and those who didn't. She expected to see a difference in the babies as far as birth weight and neuro-tests, but

there was no difference whatsoever. The differences that the researchers did notice, that are unexplained, and, kind of curious, are that the babies of the women who had smoked cannabis, speaking about daily use during their pregnancy, socialized more quickly, made eye contact more quickly and were easier to engage.

XVI. Certain Parts of the World where Cannabis is Legal:-

A. The United States of America:-

- i. Alaska, Arizona, California, Colorado, Connecticut, DC, Delaware, Hawaii, Illinois, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Oregon, Rhode Island, Vermont, Washington.

The petitioner states that what is of great importance with regard to the United States of America, is the fact that it is a signatory to the “Single Convention on Narcotic Drugs, 1954”, “Convention on Psychotropic Substances, 1971”, & “UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988”, still at the local level the Cannabis has been legalized for its medicinal qualities.

C. Uruguay:-

- i. Uruguay is the first country to regulate legal production, sale and consumption of marijuana.
- ii. New rules legalizing the marijuana market have taken effect from May 06.05.2014.
- iii. Uruguay President Jose Mujica backed the law and says it will harm drug traffickers.
- iv. The law doesn't give foreigners the right to smoke or even buy the drug.

The petitioner states that Uruguay, is a signatory to the “Single Convention on Narcotic Drugs, 1961”, “Convention on Psychotropic Substances, 1971”, & “UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988”, however, new rules legalizing the marijuana market have taken effect from May 06.05.2014.

D. North Korea:

- i. The sale and growth and consumption of marijuana is legal and not regulated by the government of North Korea.

The petitioner states that North Korea, is not a signatory to the “Single Convention on Narcotic Drugs, 1961”, “Convention on Psychotropic Substances, 1971”, & “UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988”.

E. Netherlands:

- i. Decriminalization and cannabis products are sold openly.

The petitioner states that Netherlands, is a signatory to the “Single Convention on Narcotic Drugs, 1961”, “Convention on Psychotropic Substances, 1971”, & “UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988”, and Cannabis is decriminalized.

F. Portugal:

- i.* In the year 2000, Portugal eliminated criminal penalties for drug users. Since then, those caught with small amounts of marijuana, cocaine or heroin goes unindicted and possession is a misdemeanor on par with illegal parking.

The petitioner states that Portugal, is a signatory to the “Single Convention on Narcotic Drugs, 1961”, “Convention on Psychotropic Substances, 1971”, & “UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988”, and Cannabis is decriminalized.

G. Israel:

- i. The petitioner states that Medical marijuana treatment has become popular and accepted over the last few years in Israel, with about 15,000 registered users and 50 more approved each week by the Health Ministry, as was reported in The Times of Israel news article dated-23.03.2014 and is also mentioned in the documentary “Weed” CNN Special Documentary “Weed”.

The petitioner states that Israel, is a signatory to the “Single Convention on Narcotic Drugs, 1961”, “Convention on Psychotropic Substances, 1971”, & “UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988”, and Cannabis is being used for medicinal purposes.

H. Czech Republic:

1. The petitioner states that the Government of Czech Republic has decriminalized by a new law, the personal quantity limits of Cannabis, which has gone into effect from 01.01.2010.
2. The petitioner states that, under the new law, possession of less than the following amounts of; Marijuana - 15 grams (or five plants) is not a criminal offence.

The petitioner states that Czech Republic, is a signatory to the “Single Convention on Narcotic Drugs, 1961”, “Convention on

Psychotropic Substances, 1971”, & “UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988”, and Cannabis is being used for medicinal purposes.

XVII. Few Articles in News Papers in support of Legalization of cannabis are reproduced as under:-

- a. **The Perth Gazette and Western Australian Journal - Article dated 15.11.1845-** *“The preparation of Indian Hemp (Cannabis Indica) have been chiefly employed in neuralgic and painful affections.....All those who have tried the effects of this remedy in the British Isles have come to a conclusion that the Indian Hemp must be given in much larger doses in this country than in the east,.....”*
- b. **Times of India - Article Dated 10.11.2012 -** *“In India it was a norm until 1985. All cannabis derivatives - marijuana (grass or ganja), hashish (charas) and bhang - were legally sold in this country. As a matter of fact, most state governments had their own retail shops to sell these drugs. India has known, consumed and celebrated ganja, charas and bhang for millennia.”*
- c. **Times of India - Article Dated 14.09.2014 -** *“Marijuana floods your brain with dopamine and the happy state of mind' helps you enjoy yoga better, say practitioners of ganja yoga, which is attracting a niche following in the US and Canada. Yoga instructors are offering it as a spiritually "higher" alternative to the plain vanilla variety. "You feel more connected with your soul," says Lucelene Pancini who has been teaching ganja yoga at her Toronto studio, House of Yoga, for the last two years.*

- d. **Times of India – Article Dated 29.07.2014** - The New York Times called for the legalization of marijuana on Saturday, comparing the federal ban on cannabis to Prohibition. In an editorial, the prestige publication said *“marijuana laws disproportionately impact young black men and that addiction and dependence are “relatively minor problems” especially compared with alcohol and tobacco.”*
- e. **Times of India – Article Dated 02.01.2015** - *Lift ban on cannabis for medical research: Oncologists:- “Bengaluru: Marijuana or ganja may be frowned upon as a banned recreational drug, but could offer an effective cure for cancer, say top oncologists of Bengaluru. They have now decided to lobby with the Centre to lift the ban on cannabis to allow them to explore the medicinal uses of the plant.”* Hereto annexed and marked as **Exhibit - R colly** are the certified true copies of the said newspaper articles.
- f. The petitioner states that from the above articles, especially one referred to in *“Perth Gazette and Western Australian Journal – Article dated 15.11.1845”* and all the other information produced by the petitioner in the forgone Para’s, it becomes abundantly clear that Cannabis was always an integral part of our culture and hence making it illegal without any medical or logical reasons is, arbitrary, oppressive and violative of citizen’s rights to use and grow a plant not only for its health benefits but also for the plants ability to promote a healthy environment.
- g. The petitioner states that the petitioner is at a complete loss, as the petitioner fails to comprehend and to arrive at a legitimate understanding, as to

what was the scientific basis or logical reasons on which such a versatile plant has been outlawed.

h. The petitioner therefore decided to pursue this and with an intention to seek legitimate answers sent out Right to Information queries to the respondents. Petitioner, however, states that the petitioner instead of getting a legitimate answers to his questions, was greeted with either evasive replies or informed that petitioners application has been transferred from one department to other.

16. The petitioner states that in *S.P. Gupta v. Union of India*, AIR 1982 SC 149 (para 16, 20, 22), where *Upendra Baxi v. State of U.P (1983) 2 SCC 308*, was referred to in Para 16-17, doctrine of Public Interest Litigation was formulated a bench of 7 Judges in a comprehensive form, to apply to any case of public injury arising from:-

- a. "The breach of any public duty, or*
- b. The violation of any provision of the Constitution, or*
- c. of the law."*

17. The petitioner reading Para 16, states that the petitioner has thus adhered to, and, fulfilled the requirements, as laid down by the Hon'ble Supreme Court, for preferring this Public Interest Litigation, on grounds mentioned hereinabove, and by producing all the evidence in support in immediate legalization of Cannabis for public good, which are annexed herewith.

18. The petitioner at this particular point would like to bring to Hon'ble Courts kind attention a quote by Socrates, and, make this Hon'ble Court aware as to why the petitioner has spent his time on reading research by Doctors, Micro-biologists, observations in "Report of The

Indian Hemp Drugs Commission” 1893-94, *et all*. The said quote reads as under:-

“Employ your time in improving yourself by other men’s writings, so that you shall gain easily what others have labored hard for.”

19. The petitioner also would want this Hon’ble Court to consider a famous comment of Martin Luther King, Jr.’s, in his famous letter from Birmingham Jail, dated 16th April 1963:-

“One has not only a legal but a moral responsibility to obey just laws. Conversely, one has a moral responsibility to disobey unjust laws.”

20. The petitioner states that our Constitution has been blessed by weaponry, by its framers, which can be used to protect the rights of people, which the petitioner has already referred to earlier in this Public Interest Litigation, and, wants this Hon’ble Court to use that power, in greater public interest.

21. The petitioner wants this Hon’ble Court to consider the research of the petitioner, in the interest of the present, and future generation’s who suffer, and might suffer, due to being kept away from Cannabis, which the petitioner has convincingly shown is a gift of god, and versatile medicine.

22. Petitioner states that the demand of the petitioner to get satisfactory answers to the questions raised by him in his Right to Information Application’s addressed to the public authorities aforementioned, is a legal right, and, also judicially enforceable. Petitioner is thus before this Hon’ble Court, personally feeling aggrieved and in public interest, as a result of the impugned state action.

23. Petitioner states that the petitioner has relied on and produced research by Doctors, Bio-Chemist's, Microbiologists etc. Petitioner states that the petitioner is not worried about his research being refuted by experts. However, the fact and the most pertinent question remains as to how can a plant (Cannabis) be made illegal without basing it on any scientific, medical or any logical reasons whatsoever.
24. The petitioner would like to conclude this Public Interest Litigation by referring to a prayer from the Atharva Veda which is as follows:-

Atharva Veda Samhita ~ Book 11

A prayer to all Divinities and Sanctities for deliverance from Distress

To the five kingdoms of the plants which Soma rules as Lord we speak.

Darbha, hemp, barley, mighty power: may these deliver us from woe.

~Hymn 6, Sonnet 15.

Exact transliteration from English to Sanskrit:-

***Pañcarājyāni vīrudhām somaśreṣṭhāni brumah |
Darbho bhango yavah sahaste no muñcantuamhasah | |***

-11.6.15 Atharva Veda.

- a. This Hon'ble Court would appreciate the fact that said Shloka includes, "Bhango" which is nothing but Hemp/Cannabis/Marijuana/Ganja/Bhang, also finds a mention in the Atharva Veda, as a divinity and sanctity which shall without doubt free us from bondage and danger.
- b. Petitioner, however, is not invoking Article 25, because, the petitioner has filed this Public Interest Litigation for the benefit of humanity at large, and not on religious considerations. Petitioner on the

contrary is fixated not only with himself but also with citizens of our great nation, no matter what the religion, caste etc., to have a free and an unhindered access, and, a right to grow the most versatile medicine (Cannabis), a gift of god. Petitioner humbly states that Hon'ble Court may also refer to the findings of Mr. J.M. Campbell, aforementioned, which will show that Cannabis was always an integral part of culture, the disappearance of which, the petitioner attributes some kind of hidden propaganda against Cannabis a gift of god, which the petitioner is not aware of.

25. Petitioner states that the petitioner is invoking the extraordinary jurisdiction of this Hon'ble Court in public interest under Article 226 of the Constitution of India, 1950, in order to declare the relevant provisions in relation to Cannabis as contained in The Narcotic Drugs and Psychotropic Substances Act, 1985, and notifications issued there under, and inclusion of Cannabis in National Policy on Narcotic Drugs and Psychotropic Substances, as being, *ultra vires*, the Constitution, as the petitioner has shown the Hon'ble Court the benefits of Cannabis to human health and the fact that it was always an integral part of our cultural heritage, and, also because respondents have failed to answer the legitimate questions raised in his Right to Information Application, by the petitioner, and, hence failed to satisfactorily discharge their duty in public interest.
26. Petitioner states that there is no application or Writ Petition or Public Interest Litigation, either before this Hon'ble Court or in the Hon'ble Supreme Court or any other Court of Law, or Tribunal touching the subject matter.
27. Petitioner craves leave to refer to and rely on Acts, Reports and other scientific evidence in support of his

petition as when called upon to do so by this Hon'ble Court.

28. Petitioner carves leave to add, amend, delete, change, alter, modify any of the foregoing paras/ grounds with the permission of this Hon'ble Court.
29. The petitioner states that the petitioner has approached this Hon'ble Court with clean hands keeping in mind only the benefit of his and the fellow citizens, and relied on scientific findings in support of his Public Interest Litigation which are annexed herewith.
30. **The petitioner therefore prays in public interest that:-**
 - a. That the Hon'ble Court be pleased to allow this Public Interest Litigation.
 - b. The Hon'ble Court be pleased to declare, the defining and penal provisions, in relation to Cannabis, of The Narcotic Drugs and Psychotropic Substances Act, 1985, and inclusion of Cannabis in Schedule I, Entry (2) of The Narcotic Drugs and Psychotropic Substances Act, 1985, and inclusion of Cannabis at Sl. No. 23 in Notification Specifying Small Quantity and Commercial Quantity, dated 19.10.2001, published in the Gazette of India, for the purposes of Section 2 (viiia) and 2 (xxiiiia) of The Narcotic Drugs and Psychotropic Substances Act, 1985, and, inclusion of Cannabis in National Policy on Narcotic Drugs and Psychotropic Substances, as being, unjust, and, *ultra vires*, the provisions of Constitution of India, 1950, and,
 - c. The Hon'ble Court be pleased to direct, the defining and penal provisions, in relation to Cannabis, of The Narcotic Drugs and Psychotropic Substances

Act, 1985, and inclusion of Cannabis in Schedule I, Entry (2) of The Narcotic Drugs and Psychotropic Substances Act, and 1985, and inclusion of Cannabis at Sl. No. 23 in Notification Specifying Small Quantity and Commercial Quantity, dated 19.10.2001, published in the Gazette of India, for the purposes of Section 2 (viiia) and 2 (xxiiia) of The Narcotic Drugs and Psychotropic Substances Act, 1985, and, inclusion of Cannabis in National Policy on Narcotic Drugs and Psychotropic Substances, be suitably amended for being, unjust, and, *ultra vires*, the provisions of Constitution of India, 1950, and,

- d. That as an interim relief the operation of every provision in relation to Cannabis in The Narcotic Drugs and Psychotropic Substances Act, 1985, and Notification Specifying Small Quantity and Commercial Quantity, dated 19.10.2001, contravention of which is a unjustified penal offence, be suspended until the final hearing and disposal of this Public Interest Litigation; and
- e. The Hon'ble Court be pleased to pass any other just and equitable order in the interest of justice.

AND FOR WHICH ACT OF KINDNESS THE PETITIONER AS IN DUTY BOUND SHALL EVER PRAY.

VERIFICATION

I, Aditya Barthakur, age: 34 years, Occupation: Advocate, R/at. [...], the petitioner above named, do hereby state on solemn affirmation that whatever has been stated in Para No. 1 to 16 is true and correct to the best of knowledge and belief, and, what is

stated in Para No. 17 to 30 are my legal submissions and prayers which I also believe to be true. I have personally checked the photocopies of all the annexure's and also checked the source of the videos annexed as Exhibits and the declare the true and correct copy of the original.

Solemnly Affirmed at Pune }

Dated this 05th day of January 2015 }

Deponent

Identified by Me

Aditya Barthakur
(Petitioner in Person)