

IN THE SUPREME COURT OF INDIA

[S.C.R., Order XXII Rule 3(1)(A)]

CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (C) NO. _____ OF 2020

(UNDER ARTICLE 136 OF CONSTITUTION OF INDIA)

(Arising from the order dated 02.12.2020 passed by the Hon'ble High Court of Gujarat at Ahmedabad in R/Writ Petition (PIL) No. 108 of 2020)

IN THE MATTER OF:-

STATE OF GUJARAT

... PETITIONER

VERSUS

VISHAL AWTANI

... RESPONDENT

WITH

I.A. No. OF 2020:-

**APPLICATION SEEKING EXEMPTION
FROM FILING CERTIFIED COPY OF
THE IMPUGNED ORDER**

I.A. No. OF 2020:-

**APPLICATION SEEKING PERMISSION TO
FILE DIM COPIES OF CERTAIN
ANNEXURES**

I.A. No. OF 2020:-

**APPLICATION SEEKING EXEMPTION
FROM FILING AUTHORISED TRANSLATION
OF THE ANNEXURES**

[PAPER BOOK]

[FOR INDEX: KINDLY SEE INSIDE]

**ADVOCATE FOR THE PETITIONERS : ANIRUDDHA P.
MAYEE**



SYNOPSIS

The petitioner state of Gujarat is constrained to file the present SLP against the impugned order and judgment dated 02/12/2020 passed in R/WRIT PETITION (PIL) NO. 108 of 2020, whereby, the Hon'ble high court while relying on the concept of principle of community service has been pleased to pass certain directions which are firstly judicially unmanageable and secondly have no authority of law. The said directions are as under-

[a] Any person found to be not wearing or using a face mask/covering in a public place and/or violating the COVID protocol of social distancing, shall be mandated to do community service at any COVID Care centre run by the local authorities.

[b] Such mandate of community service to be implemented for all violators without any discrimination favourable or otherwise.

[c] The duty should be non-medical in nature and can include activities such as, cleaning, housekeeping, help in cooking and serving the food, preparation of record, data feeding, etc. The nature of the duties given shall be appropriately decided by the authorities, considering the age, qualifications, gender and health status of the violator.

[d] Such community service should be for least 4-6 hours a day, for a period ranging from 5-15 days as the authorities deem it fit and necessary.

[e] Such instances should be widely publicized in the media, including social, electronic, digital and print media, so as to have a desirable deterrent effect.

It is respectfully submitted that the aforesaid directions passed by the Hon'ble division bench are contrary to law and will have adverse impact on public health system. Briefly the grounds of challenge are as under:-

- (i) The Hon'ble High Court while passing the impugned order, has failed to take into consideration the practical difficulties that would be faced by the State for implementation of the impugned order. It is pertinent to note that considering the present pandemic situation, each wing of the State machinery is engaged in the battle against COVID-19 and as laudable as the intention of the Hon'ble High Court may be, the practical impossibility of implementation of such order has been ignored by the Hon'ble High Court.

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- (ii) The Hon'ble High Court has failed to appreciate that the entire State machinery, at the moment, is occupied in providing essential services, such as medical and health services to COVID patients, implementation of social distancing norms and all other aspects pertaining to COVID control. Thus, tracking the offenders as mentioned in the order of the Hon'ble High Court, processing their enlistment for community service, monitoring the performance of the community service and regulating such other aspects, pose great logistical difficulties which are multiplied manifold at such a crucial time, when the entire State and its instrumentalities are focused in controlling the spread of the virus.
- (iii) The Hon'ble High Court has failed to consider that in due deference to the earlier orders of the Hon'ble High Court, the State has already increased the fine for not wearing face masks/covers to Rs. 1,000/- across the State. In this regard, it is imperative to bring to the attention of the Hon'ble Court that till 23.11.2020, a

total fine of Rs. 83,10,35,100 has been collected from 20,35,075 persons for not wearing face masks or appropriately covering their faces. Furthermore, 1,61,082 offences have been registered for violation of notifications issued under Section 188 of the Indian Penal Code, 1860; 57,699 offences have been registered for violation of the law by quarantined persons and 42,420 offences have been registered for rioting and in connection with the Disaster Management Act, 2005. These figures clearly indicate the efforts that are being put in by the State and further that penal action is being taken by the State for strict implementation of social distancing and other norms pertaining to COVID-19.

- (iv) The Hon'ble High Court has erred in mandating community service for such offenders as the same has imposed an additional responsibility upon the State, in respect of monitoring the well-being of such offenders. It is pertinent to note that the Hon'ble High Court has ordered that the such offenders be utilised for non-medical services at COVID centres. However, while

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passing the impugned order, the Hon'ble High Court has failed to deliberate upon the risk that such offenders will be exposed to while working in such COVID centres.

- (v) The Hon'ble High Court while passing the impugned order did not take into consideration that such offenders would be members of the common public and would possess no training, whatsoever, to work in such high risk COVID care centres. Such lack of training would further increase the risk of their exposure to the virus, in turn making them susceptible targets. Moreover, these offenders may end up as super spreaders, given their continuous exposure to an environment where they would be surrounded by infected patients. Thus, the impugned order has the potential of backfiring and may actually result in increase of the number of COVID cases, rather than achieve the object with which it has been passed.
- (vi) The Hon'ble High Court has mandated such community service to be implemented across the State. While

issuing such a direction, the Hon'ble High Court has ignored the fact that in some districts there are lesser number of COVID care centres and thus, in view of the lesser space, they would not have the capability or capacity to handle and accommodate the number of offenders/violators for rendering of such service.

- (vii) The Hon'ble High Court while passing the impugned order has stated that the services of the violators be listed in accordance with the age, qualifications, gender and health status of the violator. Such direction of the Hon'ble Court does not take into consideration the situation that may arise in case the violators are children, young girls, pregnant women, etc. It is submitted that monitoring the safety of such vulnerable groups for community service becomes a humungous task, more so, in light of the present situation of the pandemic.
- (viii) The Hon'ble High Court has failed to appreciate that the inter-state, inter-district movement of persons and goods has been permitted by the Government of India guidelines. In such a scenario, if any person travelling

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from one place to another, is required to undergo community service, many questions and issues regarding the rendering of such service including the actual residence of such an offender. The logistical obstacles and the basic practicality involved in the implementation of the order have been ignored by the Hon'ble Court.

Apart from the above the impugned order will also entail the following drastic and adverse effects in public health management in the state.

- (i) Chances of Covid infection to comorbid person, pregnant lady and child.
- (ii) Chances of violence by punished person during community service.
- (iii) Issue regarding wage loss to person, who depend on daily base income.
- (iv) Human right issue.
- (v) Issue regarding testing of person before sending for community service.
- (vi) Food, water, safety & health service (Medicine taken for him/ her for exiting disease) provide to punished person.
- (vii) Departmental co-ordination issue for punishing to person and reporting.

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- (viii) Post duty Psychological illness may develop in punished person.
- (ix) Social dignity issue of punished person. (in society, Job, Family etc)
- (x) Type of community service given to punished person depend on their age, gender and health related illness.
- (xi) Still not started in other state of India.
- (xii) Chances of death due to Myocardial infection and other illness during community service due to stress.
- (xiii) Vaccination of child and pregnant lady.
- (xiv) Negative approach by Hospital staff or other department staff to punished person.
- (xv) Road traffic accident during attending community service.
- (xvi) Private Job loss due to 5 to 15 days work as community service.
- (xvii) Leave issue in government and private sector job.
- (xviii) Missing online classes of student due to community service.
- (xix) Care taker issue of his/her family member's comorbid person & child.
- (xx) Person can be covid positive, so testing of all people who are eligible for community service can be challenge
- (xxi) Person can be co-morbid or high risk or old age or pregnant or child

- (xxii) Person can be in contact with covid positive and can infect to others
- (xxiii) If someone has assigned duty and they can die due to any region then who is responsible?
- (xxiv) If person is from outsider and has assign community service then what about is lodging and boarding
- (xxv) May create legal issues if developing partial or permanent disability or death

Hence the present SLP.

LIST OF DATES

15.07.2020	The present Writ petition PIL was filed. A copy of the writ petition being R/WRIT PETITION (PIL) NO. 108 of 2020 is annexed hereto and marked as <u>Annexure P-1</u>
25.11.2020	The writ petitioner respondent herein moved a draft amendment to the subject writ petition. A copy of the draft amendment is annexed hereto and marked as <u>Annexure P-2</u>
02/12/2020	The Hon'ble high court passed the impugned order.

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 108 of 2020

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VISHAL S AWTANI
Versus
STATE OF GUJARAT

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Appearance:
PARTY IN PERSON(5000) for the Applicant(s) No. 1
MR KAMAL B. TRIVEDI, ADVOCATE GENERAL WITH MS MANISHA
LAVKUMAR, GOVERNMENT PLEADER for the Opponent(s) No. 1,2

=====

CORAM: **HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH**
and
HONOURABLE MR. JUSTICE J.B.PARDIWALA

Date : 02/12/2020

ORAL ORDER
(PER : HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH)

1 Concept of ***community service*** is widely accepted and implemented world over including some States in India. For the first time Community Service programmes began in the United States with female traffic offenders in Alameda County, California in 1966. Gradually it has spread all over and is a useful tool used as a deterrent for petty violations of law.

2 What is community service? Is it a sentence or punishment or reparation or reformation? We may record here that community service is not a punishment in its

true sense but it is a kind of reparation. In a document prepared by Christopher Bright under the program of Prison Fellowship International, the concept of community service is very well explained. We quote hereunder relevant extract from the said document :

"Baker has proposed the following (or a variation of the following) definition for reparation: "action by the offender to make good the loss suffered by the victim". The question becomes whether the community truly ever is a victim, and if so, whether community service actually makes good the community losses. Some have answered in the affirmative, positing that the community is a secondary victim that is indirectly injured by crime. For example, the community suffers psychological injury from the fear of crime, and more tangible injuries, such as rising insurance costs. Others argue that the harms suffered by the community as a result of crime are too intangible to calculate, and consequently the service imposed is arbitrary. Here, a meaningful distinction may help maintain the reparative purposes of both restitution and community service; restitution repairs the harm to the

individual victim; community service repairs the harm to the community. Who the victim is--individual or community--determines the type of reparative sanction. Distinguishing community service from restitution in this way helps prevent community service from being used as a punitive sanction: if it is simply added on to the offender's sentence, it is used as a means of punishment. If instead, community service is used to repair the harm to the community, the risk of it being used as a punishment is reduced."

3 There are certain benefits of community service. The violators turn out to be a great resource for the state government / administration / non governmental organisations. It provides an opportunity to the offender / violator to have a first hand experience of the injuries caused or could be caused by him. It gives a constructive means of repairing the wrong done by him. It also gives an opportunity to the violator to improve and become more responsible.

4 The pandemic of COVID-19 continues to spread its tentacles and the number of people being affected by

it continues to grow each day. Recently, there has been a sudden increase in the number of COVID cases. Such increase in the spread of the virus, can largely be attributed to the negligence and recklessness of the public at large, in not maintaining social distancing norms and not diligently and strictly wearing face masks/coverings. Such conduct is detrimental to the general health and safety of the people. As per various studies on the virus, one COVID positive person can infect upto 200 persons. As a matter of fact, many scientific studies have called the face mask/covering as a "Vaccine" for the virus. In such times, there is a great need to instill a habit amongst the people to wear face masks, in order to protect the health of the people, at large.

5 Considering the irresponsible behaviour of the public at large during the Diwali festival resulting in a sudden spike in the cases of Covid 19 positive cases, on 27.11.2020, we had passed the following order:

"1. We have heard Shri Vishal Awtani, the petitioner in person, Shri Kamal Trivedi, learned Advocate General along with Ms. Manisha Lavkumar Shah, learned Government Pleader for the State respondents.

2. By means of this petition, the petitioner has prayed for appropriate directions to the State to increase the fine for not wearing a face cover (mask) to Rs.2,000/- in the cities of Ahmedabad, Vadodara, Surat and Rajkot and Rs.1,000/- for the rest of the Gujarat. In one of our orders, the fine has been increased to Rs.1,000/- for the entire State of Gujarat which is presently being enforced by the State and recovered from the persons not covering their face with the mask. Today's newspaper carries a news item that out of 100 who were fined for not wearing a face cover (mask), 47 were tested positive with Asymptomatic condition. This is very alarming.

3. Shri Awtani submitted that the fine alone does not appear to be a sufficient deterrent for people to use the mask whenever they are out and therefore he suggests that in addition to the fine that is being imposed, appropriate

directions may be issued that such persons who are caught without wearing a face cover (mask), their services will be utilized for community services at Covid-19 Centers for 10 to 15 days on non-medical services. According to Shri Awtani, this would sufficiently work as a deterrent and will ensure stricter implementation of compulsory wearing a mask.

4. Learned Advocate General and the learned Government Pleader also find this suggestion to be working well as a deterrent, however, they prayed for reasonable time to revert back after obtaining instructions from the State. We also feel that such steps if taken would definitely ensure greater implementation of the compulsory wearing of mask which will definitely help us in containing the spread of the COVID-19.

5. Since this will require an urgent attention at the level of the State and also by us, we direct that for consideration of this aspect, let this petition be listed on Tuesday i.e. 01.12.2020 on top of the Board, to be taken up at 11.00 a.m.

6. The petitioner may provide a copy of this petition to the office of the learned Advocate General and the learned Government Pleader today itself."

6 We have heard Shri Vishal S. Awtani, the petitioner in person, Shri Kamal B. Trivedi, learned Advocate General along with Ms. Manisha Lavkumar, learned Government Pleader for the State respondents.

7 Today Shri Kamal B. Trivedi, learned Advocate General made the following submissions:

[i] In the last 3 days, the administration has geared up to ensure that steps are taken to check and control the spread of Covid-19. In that process, strict measures are taken against the violators who are not following the protocol by wearing face cover/mask. This is being done at all Cross Roads, other public places, markets, gatherings etc.

[ii] In the last 3 days, there has been a gradual decline in the numbers of positive Covid-19 cases.

[iii] In the last 3 days there has been a slight reduction in the frequency of calls on the helpline Nos. 104 and 108.

[iv] A week's time be granted to assess the situation and thereafter if the situation is not satisfactory the Court may pass appropriate orders.

[v] The administration although had brainstorming sessions but was unable to find out any viable mechanism or the modalities as to how to utilize the services of the violators for community service at Covid Centres.

8 In effect the submission of Shri Trivedi, learned Advocate General reflecting the stand of the

State is that the State is not inclined to introduce community service for violators of social distancing norms and / or for those not wearing face cover/mask at the Covid Centres on non-medical positions.

9 Pursuant to the hearing on 27.11.2020, we had expected the State to come up with a solution to this problem which is increasing day by day. However, instead of taking a stand on the issue, the State has declined to address this issue. Such stand of the State is unfortunate considering that it is the State which is required to act in the most proactive manner in such times. The stand of the State has left us with no option but to issue certain directions, considering the gravity and enormity of the situation.

10 The gradual decline in figures both in number of positive cases and in terms of phone calls to the helpline numbers is just marginal and not significant. If we grant a week's time it may only further worsen the situation rather than checking it. At this juncture our

interference is necessary considering the spread of the virus. Every minute, every hour, every day matters. Any lethargy or inaction today may result in putting the lives of millions at risk.

11 A violator not wearing a face cover/mask is not only putting himself to risk but is also putting people near and around him or in close contact with him to risk. Such others could be his acquaintances, relatives, friends or strangers. In effect, he is putting the community at risk and therefore, in line with the concept and in principle of community service, the said violator must extend services to the community which is put at risk.

12 We do not find any good reason why the State cannot draw out a mechanism / modalities or the guiding procedure for such measures. We had observed in one of our previous orders that if we are alive today it is only on account of the efforts of the State and its instrumentalities. One must not forget that the State is

after all a welfare State. The foundation of the existence of the State lies in protecting its people and making the best possible efforts for their well being. We can understand that the State may require some reasonable time to develop the modalities or the mechanism to ensure implementation of such community services by the violators.

13 For all the reasons recorded above, we are of the view that the State must come out with a policy or order directing that all those caught not wearing face cover/mask shall be listed for community service and their services be taken depending upon the nature of service such violators can extend. We accordingly direct the State to forthwith come up with the notification under the relevant statutes providing that in addition to imposition of fine, any person found not wearing face cover / mask to render community service taking the following aspects into consideration :

[a] Any person found to be not wearing or using a face mask/covering in a public place and/or violating the COVID protocol of social distancing, shall be mandated to do community service at any COVID Care centre run by the local authorities.

[b] Such mandate of community service to be implemented for all violators without any discrimination favourable or otherwise.

[c] The duty should be non-medical in nature and can include activities such as, cleaning, housekeeping, help in cooking and serving the food, preparation of record, data feeding, etc. The nature of the duties given shall be appropriately decided by the authorities, considering the age, qualifications, gender and health status of the violator.

[d] Such community service should be for at

least 4-6 hours a day, for a period ranging from 5-15 days as the authorities deem it fit and necessary.

[e] Such instances should be widely publicized in the media, including social, electronic, digital and print media, so as to have a desirable deterrent effect.

14 Draft amendment is allowed.

15 Let this matter be listed on 24.12.2020. By the said date a status report to be filed by the State respondents regarding the compliance.

(VIKRAM NATH, CJ)

(J. B. PARDIWALA, J)

A. B. VAGHELA/A.M.PIRZADA/P.SUBRAHMANYAM

IN THE SUPREME COURT OF INDIA

S.C.R. Order XXI Rule 3 (1) (a)

CIVIL APPELLATE JURISDICTION

(Under Article 136 of the Constitution of India)

SPECIAL LEAVE PETITION (CIVIL) No. OF 2020

(Against the interim order and judgment dated 02/12/2020
passed by the Division Bench of the Hon'ble High Court of
Gujarat in R/WRIT PETITION (PIL) NO. 108 of 2020)

WITH PRAYER FOR INTERIM RELIEF**IN THE MATTER OF: -****POSITION OF PARTIES**

			In the High Court	In this Hon'ble Court
1.	State of Gujarat Through the Principal Secretary, health and family department, government of Gujarat, 7 th floor, block 7 Sardar Patel Bhawan. Sachivalaya Gadhinagar Gujarat.		Respondent No.1	Pet. No.1
2.	The Secretary, Home Department, Government Of Gujarat Block No 2, Sardar Bhawan, New Sachivalaya,		Respondent No.2	Pet. No.2

	Sector 10, Gandhinagar		
		VERSUS	
1.	Vishal S Awtani. Ahmedabad Gujarat	Petitioner	Respondent

To,

HON'BLE THE CHIEF JUSTICE OF INDIA.

AND HIS LORDSHIP'S OTHER COMPANION JUDGES
OF THE HON'BLE SUPREME COURT OF INDIA.

THE HUMBLE PETITION OF
THE PETITIONER ABOVE
NAMED.

MOST RESPECTFULLY SHOWETH:

1. The Petitioners are constrained to move this Hon'ble Court under Article 136 of the Constitution of India aggrieved by the impugned interim order and judgment dated 02/12/2020 passed by the division bench of the Hon'ble High Court in R/WRIT PETITION (PIL) NO. 108 of 2020, whereby the honble high court has been pleased to pass certain direction which are firstly judicially unmanageable and secondly without any authority of law.

2. **QUESTION OF LAW:-**

The following substantial questions of law arise for consideration by this Hon'ble Court:-

- A. Whether the impugned direction passed by the honble division bench of the Gujarat high court are judicially manageable and have the authority of law?
- B. Whether such directions can at all be passed by the Honble High Court, which do not have any legislative sanction?
- C. Whether the impugned direction passed by the honble division bench amounts to legislating a criminal offence which has no legislative backing and is impermissible in law?

3. **DECLARATION IN TERMS OF RULE 3(2)**

The Petitioners state that no other Petition seeking leave to appeal has been filed by the Petitioners against the impugned judgment and final order dated 2.12.2020 passed by the Hon'ble High Court of Gujarat at Ahmedabad R/WRIT PETITION (PIL) NO. 108 of 2020.

DECLARATION IN TERMS OF RULE 5:

The ANNEXURE P-1 to P-2 produced along with the Special Leave Petition are true copies of the pleadings / documents which formed part of the records of the case in the Court below against whose Order, the leave to appeal is sought for in this petition.

4. **GROUND:**

Leave to appeal is sought for on the following grounds:-

- A. Because the Hon'ble High Court while passing the impugned order, has failed to take into consideration the practical difficulties that would be faced by the State for implementation of the impugned order. It is pertinent to note that considering the present pandemic situation, each wing of the State machinery is engaged in the battle against COVID-19 and as laudable as the intention of the Hon'ble High Court may be, the practical impossibility of implementation of such order has been ignored by the Hon'ble High Court.
- B. Because the Hon'ble High Court has failed to appreciate that the entire State machinery, at the

moment, is occupied in providing essential services, such as medical and health services to COVID patients, implementation of social distancing norms and all other aspects pertaining to COVID control. Thus, tracking the offenders as mentioned in the order of the Hon'ble High Court, processing their enlistment for community service, monitoring the performance of the community service and regulating such other aspects, pose great logistical difficulties which are multiplied manifold at such a crucial time, when the entire State and its instrumentalities are focused in controlling the spread of the virus.

- C. Because the Hon'ble High Court has failed to consider that in due deference to the earlier orders of the Hon'ble High Court, the State has already increased the fine for not wearing face masks/covers to Rs. 1,000/- across the State. In this regard, it is imperative to bring to the attention of the Hon'ble Court that till 23.11.2020, a total fine of Rs. 83,10,35,100 has been collected from 20,35,075

persons for not wearing face masks or appropriately covering their faces. Furthermore, 1,61,082 offences have been registered for violation of notifications issued under Section 188 of the Indian Penal Code, 1860; 57,699 offences have been registered for violation of the law by quarantined persons and 42,420 offences have been registered for rioting and in connection with the Disaster Management Act, 2005. These figures clearly indicate the efforts that are being put in by the State and further that penal action is being taken by the State for strict implementation of social distancing and other norms pertaining to COVID-19.

- D.* Because the Hon'ble High Court has erred in mandating community service for such offenders as the same has imposed an additional responsibility upon the State, in respect of monitoring the well-being of such offenders. It is pertinent to note that the Hon'ble High Court has ordered that the such offenders be utilised for non-medical services at COVID

centres. However, while passing the impugned order, the Hon'ble High Court has failed to deliberate upon the risk that such offenders will be exposed to while working in such COVID centres.

- E.* Because the Hon'ble High Court while passing the impugned order did not take into consideration that such offenders would be members of the common public and would possess no training, whatsoever, to work in such high risk COVID care centres. Such lack of training would further increase the risk of their exposure to the virus, in turn making them susceptible targets. Moreover, these offenders may end up as super spreaders, given their continuous exposure to an environment where they would be surrounded by infected patients. Thus, the impugned order has the potential of backfiring and may actually result in increase of the number of COVID cases, rather than achieve the object with which it has been passed.
- F.* Because the Hon'ble High Court has mandated such community service to be implemented across the State.

While issuing such a direction, the Hon'ble High Court has ignored the fact that in some districts there are lesser number of COVID care centres and thus, in view of the lesser space, they would not have the capability or capacity to handle and accommodate the number of offenders/violators for rendering of such service.

G. Because the Hon'ble High Court while passing the impugned order has stated that the services of the violators be listed in accordance with the age, qualifications, gender and health status of the violator. Such direction of the Hon'ble Court does not take into consideration the situation that may arise in case the violators are children, young girls, pregnant women, etc. It is submitted that monitoring the safety of such vulnerable groups for community service becomes a humungous task, more so, in light of the present situation of the pandemic.

H. Because the Hon'ble High Court has failed to appreciate that the inter-state, inter-district movement of persons and goods has been permitted by the

Government of India guidelines. In such a scenario, if any person travelling from one place to another, is required to undergo community service, many questions and issues regarding the rendering of such service including the actual residence of such an offender. The logistical obstacles and the basic practicality involved in the implementation of the order have been ignored by the Hon'ble Court.

Because the Hon'ble high court failed to appreciate that apart from the above the impugned order will also entail the following drastic and adverse effects in public health management in the state.

- (i) Chances of Covid infection to comorbid person, pregnant lady and child.
- (ii) Chances of violence by punished person during community service.
- (iii) Issue regarding wage loss to person, who depend on daily base income.
- (iv) Human right issue.
- (v) Issue regarding testing of person before sending for community service.
- (vi) Food, water, safety & health service (Medicine taken for him/ her for exiting disease) provide to punished person.

- (vii) Departmental co-ordination issue for punishing to person and reporting.
- (viii) Post duty Psychological illness may develop in punished person.
- (ix) Social dignity issue of punished person. (in society, Job, Family etc)
- (x) Type of community service given to punished person depend on their age, gender and health related illness.
- (xi) Still not started in other state of India.
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- (xxi) Person can be co-morbid or high risk or old age or pregnant or child
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- (xxiii) If someone has assigned duty and they can die due to any region then who is responsible?
- (xxiv) If person is from outsider and has assign community service then what about is lodging and boarding
- (xxv) May create legal issues if developing partial or permanent disability or death

5. **GROUND FOR INTERIM RELIEF:-**

- A. BECAUSE the Petitioner has a good case on merits balance of convenience is also in the favour of the petitioner.
- B. BECAUSE if the impugned order is not stayed, huge prejudice will be caused to the public tranquillity and and public health care system.

6. **MAIN PRAYER**

It is therefore, most respectfully prayed that Your Lordships may graciously be pleased to:

- I. Grant Special Leave to Appeal against the interim order and judgment dated 02/12/2020 passed by

the Division Bench of the Hon'ble High Court of Gujarat in R/WRIT PETITION (PIL) NO. 108 of 2020;

- II. Pass such other order or orders that may be deemed fit and proper.

7. **PRAYER FOR INTERIM RELIEF:-**

- I. Grant stay against the interim order and judgment dated 02/12/2020 passed by the Division Bench of the Hon'ble High Court of Gujarat in R/WRIT PETITION (PIL) NO. 108 of 2020 and/or
- II. Pass such other order or orders that may be deemed fit and proper.

AND FOR THIS ACT OF KINDNESS THE HUMBLE PETITIONER SHALL EVER PRAY AS IN DUTY BOUND

FILED BY:

ANIRUDDHA P. MAYEE
ADVOCATE FOR THE
PETITIONERS

Filed on: 3.12.2020
New Delhi.

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

SPECIAL LEAVE PETITION (CIVIL) NO. _____ OF 2020

IN THE MATTER OF: -

State of Gujarat & Ors.

...Petitioners

Versus

Vishal S Awtani

...Respondent

CERTIFICATE

"Certified that the Special Leave Petition is confined only to the pleadings before the Court/Tribunal whose order is challenged and the other documents relied upon in those proceedings. No additional facts, documents or grounds have been taken therein or relied upon in the Special Leave Petition. It is further certified that the copies of the Annexures/documents attached to the Special Leave Petition is necessary to answer the question of law raised in the petition or to make out grounds urged in the Special Leave Petition for consideration of this Hon'ble court. This Certificate is given on the basis of the instructions given by the Petitioners / person authorized by the Petitioners whose affidavit is filed in support of the Special Leave Petition"

FILED BY:

ANIRUDDHA P. MAYEE

ADVOCATE FOR THE

PETITIONERS

Filed on: 3.12.2020

New Delhi.