

**IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
I.A. NO. _____ OF 2020
IN
WRIT PETITION (C) NO. 471 OF 2020**

IN THE MATTER OF :
Nagreeka Exports Limited

...Petitioner

Versus

Union Of India & Ors.

...Respondents

AND

IN THE MATTER OF:

1. Angmenhatnti Kashtakari Sangharsh Samiti
Through its Convenor
Sh. Nitin Pawar
89, New Timber Market,
Bhawanipeth, Pune- 2
2. Delhi Municipal Workers Union
Through its General Secretary
4/7 Asaf Ali Road,
New Delhi- 110002

...Applicants/Intervenors

WITH

I.A. NO. _____ OF 2020 Application For Intervention

PAPERBOOK

(FOR INDEX KINDLY SEE INSIDE)

ADVOCATE FOR THE APPLICANTS: SUNIL FERNANDES

INDEX

S. No.	Particulars	Page
1.	I.A. No. _____ of 2020: Application for Intervention with affidavits	1-15
2.	Vakalatnamas	16-17

**IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

I.A. NO. _____ OF 2020

IN

WRIT PETITION (C) NO. 471 OF 2020

IN THE MATTER OF :

Nagreeka Exports Limited

...Petitioner

Versus

Union of India & Ors.

...Respondents

AND

IN THE MATTER OF:

1. Angmenhatnti Kashtakari Sangharsh Samiti

Through its Convenor

Sh. Nitin Pawar

89, New Timber Market,

Bhawanipeth, Pune- 2

2. Delhi Municipal Workers Union

Through its General Secretary

4/7 Asaf Ali Road,

New Delhi- 110002

...Applicants/Intervenors

**APPLICATION FOR INTERVENTION ON BEHALF OF
THE APPLICANTS 'ANGMENHATNTI KASHTAKARI
SANGHARSH SAMITI' AND DELHI MUNICIPAL
WORKERS UNION**

TO

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

**THE HUMBLE APPLICATION OF
THE APPLICANT ABOVE NAMED**

MOST RESPECTFULLY SHOWETH:

1. The Petitioner herein- Nagreeka Exports Limited has filed the present Writ Petition under Article 32 of the Constitution of India seeking appropriate order/writ/direction for setting aside/quashing clause iii of Government order dated 29.03.2020 (“**First Impugned order**”) issued by the Ministry of Home Affairs, Government of India (“MHA”) and consequent order dated 31.03.2020 issued by the Government of Maharashtra (“**Second Impugned order**”) to the extent it compels employers like the Petitioner to pay full salary to its staff, workers, contract workers, casual workers during the lockdown period, without any deduction, when its factories are not in operation, thus being ultra vires the Constitution of India.

2. The present Intervention Application is being filed on behalf of the Applicants – Angmehnantik Kashtakari Sangharsh Samiti (“**AKSS**”) and Delhi Municipal Workers Union (“**DMWU**”). AKSS/ Applicant No. 1 is an umbrella coalition of informal workers in the State of Maharashtra. Its Convener Shri Nitin Pawar, through whom the present application is being preferred is a known trade unionist working with headloaders, construction workers, Angwanwadi workers, Rikshaw Drivers, etc. He is the General

Secretary of Bandhkaam Mazdoor Sabha, a trade union of construction workers and is also serving as the General Secretary of Rikshaw Panchayat. DMWU/ Applicant No. 2 is the oldest trade union of the Delhi Municipal Corporation, which was founded in 1948 and includes the organised and unorganised workers of DMC.

3. The Applicants thus represent workmen in the unorganised sector, whose basic rights of sustenance and livelihood will be gravely affected by any order passed in the present Writ Petition. Given the nature of work and involvement of the Applicants, primarily agitating the rights of the unorganized workers, by means of the present application, the Applicants seek permission of this Hon'ble Court to intervene in the present matter and assist this Hon'ble Court in the adjudication of the present Writ Petition.

VALIDITY OF THE IMPUGNED ORDERS PASSED UNDER SECTION 10 OF THE DMA:-

4. The First Impugned Order dated 29.03.2020 issued by the Ministry of Home Affairs, Government of India ("MHA") and consequent Second Impugned order dated 31.03.2020 issued by the Government of Maharashtra seek to uphold constitutional moralities and principles by evoking powers under the Disaster

Management Act, 2005 (“**DMA**”) and ensuring right to equality under Article 14 of the Constitution of India (“**CoI**”) is upheld.

5. The Impugned orders have been passed by taking recourse to powers under Section 10(2)(i) of the DMA by the Chairperson, National Executive Committee i.e. the Prime Minister of India in the capacity of ex-officio chairman of the said committee. The Petition in no way challenges either the vires or the powers under the said provision. The entirety of the aforesaid writ petition is based on the vague prayer of the Petitioner possibly suffering financial burden in complying with the provisions, the Petitioner has not made out a single ground to challenge the aforesaid orders on how the balance of conveniences tilts in their favour or on equity,.

6. The Impugned order dated 29.03.2020 has been passed under Section 10 of the DMA which enlists powers and functions of the National Executive Committee. Some of the powers given to the said committee as per the said provision are:-
 - a) implementing policies of the National Authority and ensuring compliance of directions issued by the Central Government for disaster management [Section 10(1)]

- b) lay down guidelines for disaster management by different ministries of the Government of India or State Governments. [Section 10(2)(e)]
 - c) Monitor the implementation of guidelines laid down by National Authority for mitigation by ministries or departments [Section 10(2)(g)]
 - d) lay down guidelines for or give directions to, the concerned ministries or departments of government of India, the State governments and the State authorities regarding measures to be taken by them in response to any disaster [Section 10(2)(l)]
 - e) perform such other functions as the National authority may require it to perform [Section 10(2)(q)]
7. The Impugned orders have been passed as directions under “disaster management”, as defined in the DMA under Section 2(e) which is reproduced herein below :-

“disaster management” means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for –

- (i) Prevention of danger or threat of any disaster;*
- (ii) Mitigation or reduction of risk of any disaster or its severity or consequences;*

- (iii) *Capacity building;*
- (iv) *Preparedness to deal with any disaster;*
- (v) *Prompt response to any threatening disaster situation or disaster;*
- (vi) *Assessing the severity or magnitude of effects of any disaster*
- (vii) *Evacuation, rescue and relief*
- (viii) *Rehabilitation and reconstruction*

8. It can be seen from the above definition that the impugned orders seek to provide mitigation, reduction of severity/consequences, prompt response, relief and rehabilitation to a class of citizens that are both marginalized and quick to be made to suffer.

IMPUGNED ORDERS HAVING A RATIONAL NEXUS TO THE OBJECT UNDER SECTION 10(2)(i) OF THE DISASTER MANAGEMENT ACT, 2005:-

9. The Impugned Orders have been passed under Section 10 of the DMA and have a direct nexus with ‘preparedness to deal with the disaster’ of COVID-19 [Section 2(e)(iv)] and laying down guidelines as well as giving directions to States and Ministries in response to the disaster. The Impugned Orders are thus reasonable and necessitated in the present circumstances for the reasons stated hereunder:-

- 9.1 To ensure the measly wages given to workers are not scuttled by taking recourse to laying off under Section 2(kkk) and Sections 25C and 25M of the Industrial Disputes Act.
- 9.2 To ensure migratory workers do not flee to their villages/hometowns in panic created by the Pandemic as well as the uncertainty of income due to illegal retrenchments, layoffs during this period by employers. Such incidents of mass migrations, as already witnessed in Delhi and Mumbai, would lead to catastrophic consequences which would undo the impact in success to curb the spread of the COVID-19, that the lockdown seeks to achieve.
- 9.3 To ensure the wage earners do not gather on streets in protest and cause the pandemic to spread, which would lead to greater devastation and work against the efforts under the DMA.
- 9.4 To ensure that a law and order problem is not parallelly created with the pandemic in a situation that the law and order personnel cannot handle in times of the pandemic, which would lead to greater losses both economically and to life itself.
- 9.5 Hence, the impugned orders, passed under the DMA have reasonable nexus to the object under Section 10(2)(i) of the DMA.

The classification of workers is reasonable and is based on an intelligible differentia of the segment of the society that is most susceptible due to denial of wages during lockdown.

10. The measures taken by the National Executive Committee under the DMA are to mitigate effects of the pandemic, and to prevent spread of the disease by freezing wage cuts, layoffs and retrenchments during the period of lockdown, in an effort to provide security to the wage earners who are marginalized and to ensure the lockdown, which is our country's only large scale effort to combat COVID-19, is not stultified by anxious migratory labourers moving about the country in search of basic livelihood.
11. It is also imperative to note that the State of Maharashtra accounts for the majority cases of COVID-19 in the country with more than 5000 confirmed cases in the State. In Mumbai alone 228 such zones have been formed and apart from Mumbai, Maharashtra has around 100 such zones. Similarly Delhi is one of the worst affected areas from COVID-19 in the Country with over . Due to the density of the population, such measures for the benefit of and to contain unrest amongst the susceptible and the adversely affected working class, are essential and required to ensure their sustenance.

12. It is also pertinent to mention that the DMA mandates relief measures to be taken by the National Committee in a disaster situation, and hence, such measures taken by the impugned orders, provide basic human relief to wage earners at the cost of financial impact on employers. On a balance of convenience and even equities, the Impugned Orders cannot be faulted with as being unconstitutional because of the larger purpose and greater object they seek to achieve.
13. That Section 72 of the Disaster Management Act, 2005 is a non-obstante clause and has an overriding effect over other legislation wherever there may be a conflict. Hence, suspension of provisions and superseding the same during the lockdown period by taking recourse to DMA is constitutionally legal under Article 254 and since the DMA is a later statute, it would prevail over provisions under the Industrial Disputes Act/State Industrial Acts
14. The present application has been moved *bona fide* and in the interest of justice. If the prayers sought for in the present writ petition are allowed, millions of wage earners would be affected, whose interests the Applicants seek to protect. In the factual

circumstances, the balance of convenience strongly tilts in favour of the Applicants. If reliefs as prayed for by the Petitioner are allowed, it would make the efforts of the National Executive Committee under the DMA nugatory and undo all the efforts taken by ordering a lockdown by the Central Government. The directions sought for in the present writ petition would cause grave and irreparable injury to wage earners who earn measly wages and would struggle to make ends meet in the present circumstances and this would go against the ethos of a socialist nation.

15. That in view of the above mentioned facts and circumstances, the interest of justice would be served if the applicant herein are allowed to intervene in the matter
16. The present application is being filed bonafide and in the interests of justice.

PRAYER

It is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a. Allow the instant application and permit the Applicants herein to intervene in the present Writ Petition; and

- b. Pass such further order/orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

**AND FOR THIS ACT OF KINDNESS THE APPLICANTS AS
IN DUTY BOUND SHALL FOREVER PRAY**

DRAWN & FILED BY:



**SUNIL FERNANDES
ADVOCATE FOR THE APPLICANT**

**PLACE: NEW DELHI
DRAWN ON: 22.04.2020
FILED ON: 22.04.2020**

**IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
I.A. NO. _____ OF 2020
IN
WRIT PETITION (C) NO. 471 OF 2020**

IN THE MATTER OF :

Nagreeka Exports Limited

...Petitioner

Versus

Union Of India & Ors.

...Respondents

AND

IN THE MATTER OF:

1. Angmenhatnti Kashtakari Sangharsh Samiti

Through its Convenor

Sh. Nitin Pawar

89, New Timber Market,

Bhawanipeth, Pune- 2

2. Delhi Municipal Workers Union

Through its General Secretary

4/7 Asaf Ali Road,

New Delhi- 110002

...Applicants/Intervenors

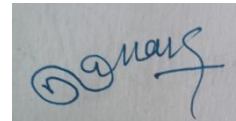
AFFIDAVIT

I, Nitin Pawar, S/o Dattatraya Pawar, aged 52, r/o 89, New Timber Market, Bhawanipeth, Pune – 2, do hereby solemnly affirm and state as under :

1. That I am the Convenor of the Applicant No.1 in the above mentioned Application and I am well conversant with the

facts and circumstances of the case and as such, competent and authorized on behalf of the applicant to swear to this Affidavit.

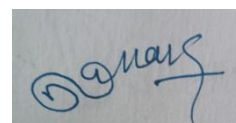
2. I state the facts stated in the accompanying application are true and correct to the best of my knowledge and the same has been drafted under my instructions.
3. That the contents of the above affidavit are true and correct and no part thereof is false and nothing material has been concealed therefrom.



DEPONENT

VERIFICATION

Verified at Pune on this the 22 day of April, 2020 that the contents of the above affidavit are true and correct to the best of my knowledge and belief. No part of this affidavit is false and no material has been willfully concealed therefrom.



DEPONENT

**IN THE HON'BLE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
I.A. NO. _____ OF 2020
IN
WRIT PETITION (C) NO. 471 OF 2020**

IN THE MATTER OF :

Nagreeka Exports Limited

...Petitioner

Versus

Union Of India & Ors.

...Respondents

AND

IN THE MATTER OF:

1. Angmenhatnti Kashtakari Sangharsh Samiti

Through its Convenor

Sh. Nitin Pawar

89, New Timber Market,

Bhawanipeth, Pune- 2

2. Delhi Municipal Workers Union

Through its General Secretary

4/7 Asaf Ali Road,

New Delhi- 110002

...Applicants/Intervenors


AFFIDAVIT

I, Ram Raj, S/o Baledin, aged about 69 years, r/o 4/7 Asaf Ali Road, New Delhi-110002, do hereby solemnly affirm and state as under:

1. That I am the General Secretary of the Applicant No. 2 in the above mentioned Application and I am well conversant with the facts and circumstances of the case and as such,

competent and authorized on behalf of the applicant to swear to this Affidavit.

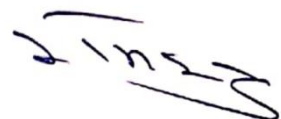
2. I state the facts stated in the accompanying application are true and correct to the best of my knowledge and the same has been drafted under my instructions.
3. That the contents of the above affidavit have been read over to me in vernacular and understood by me to true and correct and no part thereof is false and nothing material has been concealed therefrom.



DEPONENT

VERIFICATION

Verified at New Delhi on this the 22 day of April, 2020 that the contents of the above affidavit are true and correct to the best of my knowledge and belief. No part of this affidavit is false and no material has been willfully concealed therefrom.



DEPONENT

IN THE SUPREME COURT OF INDIA

CRIMINAL/CIVIL/ORIGINAL/APPELLATE/JURISDICTION

W.P., T.P., C.A., Cr.A., S.L.P. (Civil / Cr.) No. 471 OF 2020

IN THE MATTER OFNAGREEKA EXPORTS LIMITEDPETITIONER(S)

VERSUS

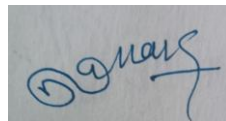
UNION OF INDIA & ORSRESPONDENT(S)**V A K A L A T N A M A**

I/We Nitin Pawar on behalf of Angmenhatnti Kashtakari Sangharsh Samiti Petitioner(s) Appellant(s)/ Respondent(s) in the above Suit / Appeal / Petition / Reference do hereby appoint and retain **SUNIL FERNANDES** Advocate Supreme Court to act and appear for me/us in the above suit/Appeal/Petition/Reference/Review and on my/our behalf to conduct and prosecute/defend the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and application for Review, and to file and obtain, return of documents, and to deposit and received any money on my/our behalf in the Suit/appeal/Petition/Reference and in application of Review, and to represent me/us, and to take all necessary steps on my/our behalf in the above matter. I/We agree to pay his fees and our pocket expenses, agree to ratify all acts done by the aforesaid Advocate in pursuance of this authority.

Dated this the 22 day of April 2020

ACCEPTED AND IDENTIFIED AND CERTIFIED


(SUNIL FERNANDES)
ADVOCATE



(NITIN PAWAR)

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

MEMO OF APPERANCE

To,
THE REGISTRAR
SUPREME COURT OF INDIA
NEW DELHI-110001

Sir,

Kindly enter my appearance in the above mentioned petition/Appeal made on behalf of the Petitioner (s)/Appellant(s)/Respondent(s)

Yours Faithfully


(SUNIL FERNANDES)

Advocate for the Petitioner (s)
Respondent(s)/Appellant(s)
A-178, Lower Ground Floor,
Defence Colony,
New Delhi – 110 024.
M. 9891639491,
Tel. / Fax :- 011-41084945.
E-Mail sunilf.adv@gmail.com

New Delhi

Dated.....

IN THE SUPREME COURT OF INDIA

CRIMINAL/CIVIL/ORIGINAL/APPELLATE/JURISDICTION

W.P., T.P., C.A., Cr.A., S.L.P. (Civil / Cr.) No. 471 OF 2020

IN THE MATTER OFNAGREEKA EXPORTS LIMITEDPETITIONER(S)

VERSUS

UNION OF INDIA & ORSRESPONDENT(S)**V A K A L A T N A M A**

I/We Ram Raj on behalf of 2. Delhi Municipal Workers Union Petitioner(s) Appellant(s)/ Respondent(s) in the above Suit / Appeal / Petition / Reference do hereby appoint and retain **SUNIL FERNANDES** Advocate Supreme Court to act and appear for me/us in the above suit/Appeal/Petition/Reference/Review and on my/our behalf to conduct and prosecute/defend the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including proceedings in taxation and application for Review, and to file and obtain, return of documents, and to deposit and received any money on my/our behalf in the Suit/appeal/Petition/Reference and in application of Review, and to represent me/us, and to take all necessary steps on my/our behalf in the above matter. I/We agree to pay his fees and our pocket expenses, agree to ratify all acts done by the aforesaid Advocate in pursuance of this authority.

Dated this the 22 day of April 2020

ACCEPTED AND IDENTIFIED AND CERTIFIED


(SUNIL FERNANDES)
ADVOCATE



(RAM RAJ)

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

MEMO OF APPERANCE

To,
THE REGISTRAR
SUPREME COURT OF INDIA
NEW DELHI-110001

Sir,

Kindly enter my appearance in the above mentioned petition/Appeal made on behalf of the Petitioner (s)/Appellant(s)/Respondent(s)

Yours Faithfully


(SUNIL FERNANDES)

Advocate for the Petitioner (s)
Respondent(s)/Appellant(s)
A-178, Lower Ground Floor,
Defence Colony,
New Delhi – 110 024.
M. 9891639491,
Tel. / Fax :- 011-41084945.
E-Mail sunilf.adv@gmail.com

New Delhi
Dated.....