

BEFORE THE HON'BLE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT SRINAGAR

CRM. (M) NO. _____ OF 2025

CRL. (M) NO. _____ OF 2025

IN THE CASE OF:

Kapil Kak and Ors. ...Petitioners

Versus

Government of Jammu & Kashmir ...Respondent

IN THE MATTER OF:

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Total (40)

THROUGH:

Vrinda Grover

Vrinda Grover, Adil Pandit,

Soutik Banerjee and Devika Tulsiani

COUNSEL FOR PETITIONERS

SRINAGAR

DATED: 26-9-25

[Signature] *[Signature]* *[Signature]*

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BEFORE THE HON'BLE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT SRINAGAR

CRM. (M) NO. _____ OF 2025

CRL. (M) NO. _____ OF 2025

IN THE CASE OF:

Kapil Kak and Ors. ...Petitioners

Versus

Government of Jammu & Kashmir ...Respondent

IN THE MATTER OF:

An Application for listing the above captioned matter
before the Hon'ble High Court

The Petitioners submit as under:

1. That the above titled Petition has been presented before this Hon'ble Court.
2. That the statutory period to challenge the Impugned Order is 60 days from the date of publication, viz. 05.08.2025.
3. That in pursuance of the Impugned Order, books are amenable to be seized all over the country, and as such the petition is urgent in nature and the Petitioners have prayed for urgent interim reliefs.

It is accordingly prayed that the application may be accepted and the Petition be listed before this Hon'ble High Court today to meet the ends of justice.

THROUGH:

Vrinda Grover

Vrinda Grover, Adil Pandit,

Soutik Banerjee and Devika Tulsiani

• COUNSEL FOR PETITIONERS

SRINAGAR

DATED:

[Signature] *[Signature]* *[Signature]* *[Signature]*

BEFORE THE HON'BLE HIGH COURT OF JAMMU & KASHMIR AND
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CRM. (M) NO. _____ OF 2025

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IN THE CASE OF:

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Government of Jammu & Kashmir ...Respondent

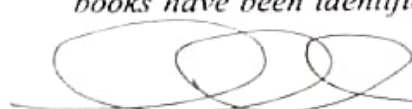
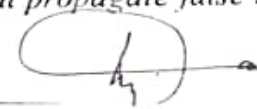
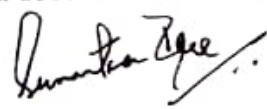
IN THE MATTER OF:

SYNOPSIS

The present petition is being filed u/Sec. 99 read with Sec. 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, (BNSS), seeking quashing and setting aside of Notification u/Sec. 98 BNSS, 2023, issued vide S.O. 203 dated 05.08.2025 published in the Gazette No. HOME-ISA/223/2025-11(7655892), hereinafter referred to as 'Impugned Order'. On 05.08.2025, the Respondent issued a declaration under Sec. 98 BNSS, being the said Impugned Order, vide which the Respondent has declared as forfeited 25 books / publications mentioned in Annexure A to the said Order.

Upon publication of the Impugned Order in the Gazette on 05.08.2025, the period of 2 months for filing an application seeking setting aside of the Impugned Order commenced, as provided in Sec. 99(1) BNSS. The conspectus of the 25 books pertains largely to the socio-political life of Kashmir and the myriad political struggles interwoven into the cultural history of the valley. These books, most of which are works of academia, serve as records in the discipline of history. Aggrieved and constrained by the arbitrary, sweeping and unreasoned forfeiture of the 25 books mentioned in the Impugned Order, the Petitioners have invoked the specific remedy provided under Sec. 99 BNSS.

The Impugned Order provides no grounds or basis to arrive at the conclusion that, "...25 books have been identified that propagate false narrative and secessionism in J&K, and

  Umar  Sumanta

need to be declared as forfeited... It does not set out any portion(s) of the concerned books to demonstrate why the same have been determined to propagate "*false narrative and secessionism*". Mere broad statements reproducing statutory provisions or referencing the contents of statutory provisions, without depicting how the same has been inferred from the content(s) of the book(s), does not meet the threshold of a 'reasoned order' envisaged by Sec. 98 BNSS. Further, the mode and manner in which the said books were identified has also not been set out in the Impugned Order. It is settled law that an administrative or quasi-judicial order having civil consequences must disclose reasons which must form part of the order itself, and the reasons cannot be supplied at a later stage. Reliance is placed herein on *Mohinder Singh Gill vs Chief Election Commissioner* (1978) 1 SCC 405.

The procedural safeguard envisaged by the BNSS in requiring the reasons to be incorporated in the Impugned Order cannot be short-circuited by administrative verbosity masquerading as reasons. The Respondent's failure to identify and incorporate the content(s) of the book(s) or even to refer to them in passing, which form the basis for the forfeiture as part of the Impugned Order is thus a fatal illegality which is not curable at this stage. In this regard reliance is placed on *Narayan Dass Indurakhyia vs State of MP* (1972) 3 SCC 676 where the Hon'ble Supreme Court held,

"According to the Oxford Dictionary the meaning of the word 'ground', in this connection must be "base, foundation, motive, valid reason." what the State Government did in this case in the opening paragraph of the order was merely to quote a portion of the words of s. 2 namely, that the books "questioned the territorial integrity and frontiers of India in a manner which is likely to be prejudicial to the interes. of the safety or security of India". The order gives no indication of the facts or the statements or the representations contained in the book which according to the State Government offended Sec. 2. In the order itself there is no reference to any map or any text in the book which would come within the mischief of the said section." [Emphasis Supplied]

It is further submitted that there is a clear distinction in law between the "opinion" of the government and the "grounds" for forming the said opinion. The Impugned Order merely reproduces the opinion of the State Government without elucidating the grounds for forming the said opinion, as is mandated by law. This distinction has been explained by the Hon'ble Supreme Court in the context of forfeiture of books u/Sec. 99A of the Cr.P.C. of



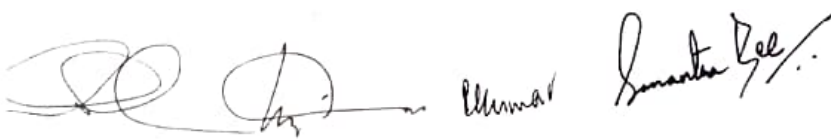
1898 which is *pari materia* Sec. 98 BNSS, in its judgment in *Arun Ranjan Ghose vs State of West Bengal* 59 CWN 495, later upheld by the Constitution Bench Judgment in *Harnam Das vs State of Uttar Pradesh* AIR 1961 SC 1662 as well as in *Narayan Das Indurakhyia* (Supra):

"It is useful to consider here what is meant by grounds of opinion. The formation of an opinion by Government is undoubtedly the ground for the action taken by them, but the grounds for the opinion are obviously different. The opinion, after it has been formed, furnishes a ground to Government for taking action contemplated, but the grounds on which the opinion itself is formed are and must be other grounds. Those grounds must necessarily be the import or the effect or the tendency of matters contained in the offending publication, either as a whole or in portions of it, as illustrated by passages which Government may choose." [Emphasis Supplied]

The Impugned Order also falls foul of multiple "legal aspects" to be borne in mind while testing the validity of the Order / Notification u/Sec. 98 BNSS (earlier 95 Cr.P.C), as laid down by the Hon'ble Supreme Court in *State of Maharashtra vs Sangharaj Damodar Rupawate* (2010) 7 SCC 398.

The Impugned Order being a clear restriction on the fundamental freedom of speech and expression and the allied right to know, must also meet the standards of the proportionality test laid down by the Hon'ble Supreme Court in various judgments including *Modern Dental College & Research Centre vs State of Madhya Pradesh* (2016) 7 SCC 353, *KS Puttaswamy vs Union of India* (2017) 10 SCC 1, *KS Puttaswamy vs Union of India* (2019) 10 SCC 1, and *Gujarat Mazdoor Sabha vs State of Gujarat* (2020) 10 SCC 459, to survive judicial review. It is submitted that the Impugned Order fails the "least restrictive measure" prong of the proportionality test and is thus unconstitutional and untenable.

As citizens interested in upholding the academic discipline of history and literature, as well as ensuring that the right to know of the people as part of the freedom of speech and expression under Article 19(1)(a) of the Constitution is not trammled upon by



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administrative overreach, the Petitioners have approached this Hon'ble Court seeking quashing and setting aside of the Impugned Order. Hence this petition.

THROUGH:

Vrinda Grover



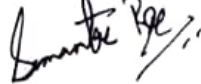
Vrinda Grover, Adil Pandit,

Soutik Banerjee and Devika Tulsiani

SRINAGAR

DATED:

COUNSEL FOR PETITIONERS

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BEFORE THE HON'BLE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT SRINAGAR

CRM. (M) NO. _____ OF 2025

CRL. (M) NO. _____ OF 2025

IN THE CASE OF:

Kapil Kak and Ors. ...Petitioners

Versus

Government of Jammu & Kashmir ...Respondent

MEMO OF PARTIES

1. Kapil Kak

Air Vice Marshal (Retd.), Indian Air
Force, aged about 84 years,
S/o Dr. Shyam Lal Kak,
R/o A-31, Sec - 21, Noida, Uttar
Pradesh - 201301

(Petitioner No. 1)

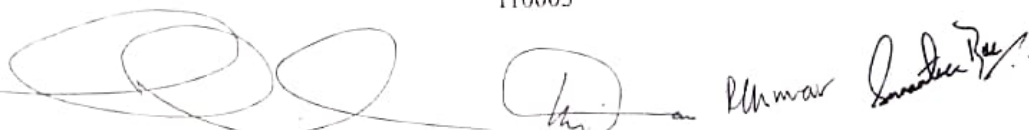
2. Dr. Sumantra Bose

Aged about 57 years,
S/o Sisir Kumar Bose
R/o 90 Sarat Bose Road, Bhawanipur,
Kolkata - 700025

(Petitioner No. 2)

3. Dr. Radha Kumar

Aged about 72 years
D/o Lovraj Kumar
R/o 33, Anand Lok, New Delhi -
110003



(7)

(Petitioner No. 3)

4. **Wajahat Habibullah**

Aged about 79 years

S/o Maj. Gen. Enaith Habibullah

R/o 529 Mt Kailash, Tower III

East of Kailash, New Delhi 110065

(Petitioner No. 4)

Vs.

1. **Government of Jammu and Kashmir**

Home Department, Civil Secretariat,

Jammu & Kashmir

(Respondent)

THROUGH:

Vrinda Grover

Vrinda Grover, Adil Pandit,

Soutik Banerjee and Devika Tulsiani

COUNSEL FOR PETITIONERS

SRINAGAR

DATED:



⑧

CRL. (M) NO. _____ OF 2025

Government of Jammu & Kashmir ...Respondent

CHRONOLOGICAL DATES AND EVENTS

Annexures

True Copy of Notification u/Sec. 98
BNSS, 2023, issued vide S.O. 203
dated 05.08.2025 published in the
Gazette No. HOME-ISA/223/2025-
11(7655892)

Vrinda Jover

**Vrinda Grover, Adil Pandit,
Soutik Banerjee and Devika Tulsiani
COUNSEL FOR PETITIONERS**

DATED: 26-9-25

DATED: 26-9-23

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THE HON'BLE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT SRINAGAR

CRM. (M) NO. _____ OF 2025

CRL. (M) NO. _____ OF 2025

THE CASE OF:

Kapil Kak and Ors. ...Petitioners

Versus

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CHRONOLOGICAL DATES AND EVENTS

Particulars

Annexures

05.08.2025

True Copy of Notification u/Sec. 98
BNSS, 2023, issued vide S.O. 203
dated 05.08.2025 published in the
Gazette No. HOME-ISA/223/2025-
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THROUGH:

Vrinda Grover

Vrinda Grover, Adil Pandit,
Soutik Banerjee and Devika Tulsiani
COUNSEL FOR PETITIONERS

SRINAGAR

DATED: 26-9-25

[Signature] *[Signature]* *[Signature]*

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BEFORE THE HON'BLE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT SRINAGAR

CRM. (M) NO. _____ OF 2025

CRL. (M) NO. _____ OF 2025

IN THE CASE OF:

1. Kapil Kak

Air Vice Marshal (Retd.), Indian Air
Force, aged about 84 years,
S/o Dr. Shyam Lal Kak,
R/o A-31, Sec - 21, Noida, Uttar
Pradesh - 201301

(Petitioner No. 1)

2. Dr. Sumantra Bose

Aged about 57 years,
S/o Sisir Kumar Bose
R/o 90 Sarat Bose Road, Bhawanipur,
Kolkata - 700025

(Petitioner No. 2)

3. Dr. Radha Kumar

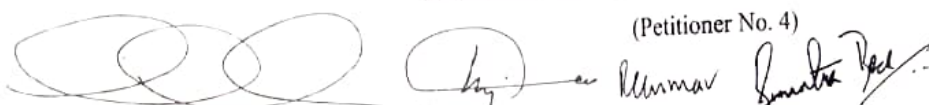
Aged about 72 years
D/o Lovraj Kumar
R/o 33, Anand Lok, New Delhi -
110003

(Petitioner No. 3)

4. Wajahat Habibullah

Aged about 79 years
S/o Maj. Gen. Enaith Habibullah
R/o 529 Mt Kailash, Tower III
East of Kailash, New Delhi 110065

(Petitioner No. 4)



Vs.

1. Government of Jammu and
Kashmir

Home Department, Civil Secretariat,
Jammu & Kashmir

(Respondent)

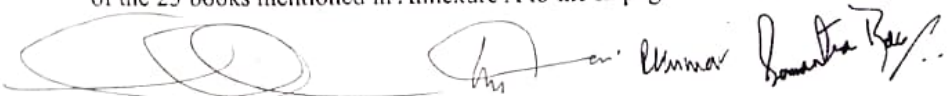
IN THE MATTER OF:

Petition u/Sec. 99 read with Sec. 528 of the
Bharatiya Nagarik Suraksha Sanhita,
2023, (BNSS), seeking quashing and
setting aside of Notification u/Sec. 98
BNSS, 2023, issued vide S.O. 203 dated
05.08.2025 published in the Gazette No.
HOME-ISA/223/2025-11(7655892)

MAY IT PLEASE YOUR LORDSHIPS,

The Petitioners herein humbly submit as under:

1. That the present petition is being filed u/Sec. 99 read with Sec. 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, (BNSS), seeking quashing and setting aside of Notification u/Sec. 98 BNSS, 2023, issued vide S.O. 203 dated 05.08.2025 published in the Gazette No. HOME-ISA/223/2025-11(7655892), hereinafter referred to as 'Impugned Order'. (Copy of Notification u/Sec. 98 BNSS, 2023, issued vide S.O. 203 dated 05.08.2025 published in the Gazette No. HOME-ISA/223/2025-11(7655892) is annexed as **Annexure - I**)
2. That the present petition is predicated on the statutory remedy provided u/Sec. 99 BNSS, whereby in terms of Sec. 99(2) BNSS, the captioned petition is required to be listed before a Special Bench of Three Hon'ble Judges of this Hon'ble High Court.
3. That the Petitioners wish to produce before the Hon'ble Court the complete contents of the 25 books mentioned in Annexure A to the Impugned Order, in furtherance of



the mandate of Sec. 99(3) BNSS. However, the same has not been annexed to the petition so as to not make it cumbersome and voluminous. Instead, the Petitioners seek that the Respondent may be directed to bring on record the complete copies of all 25 books mentioned in the Impugned Order, for proper appreciation of the present petition. Be that as it may, the Petitioners undertake to also provide for perusal of this Hon'ble Court the publicly available copies of the 25 forfeited publications if so directed by this Hon'ble Court.

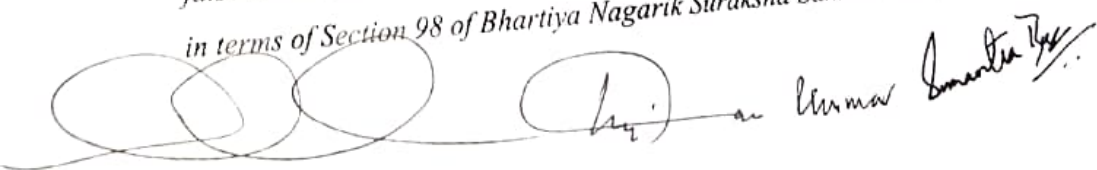
4. That before delving into the grounds and legal submissions, it is deemed necessary to provide a brief chronological background to the facts of the present case.

GIST OF CASE

- A. That on 05.08.2025, the Respondent issued a declaration under Sec. 98 BNSS, being S.O. 203 dated 05.08.2025 published in the Gazette No. HOME-ISA/223/2025-11(7655892). Through the said Impugned Order, the Respondent has declared as forfeited 25 books / publications mentioned in Annexure A to the said Order. The relevant portion of the Order is reproduced below:

"S.O.203.-Whereas; it has come to the notice of the Government, that certain literature propagates false narrative and secessionism in the Jammu and Kashmir. Available evidence based on investigations and credible intelligence unflinchingly indicate that a significant driver behind youth participation in violence and terrorism has been the systematic dissemination of false narratives and secessionist literature by its persistent internal circulation, often disguised as historical or political commentary, while playing a critical role in misguiding the youth, glorifying terrorism and inciting violence against Indian State. This literature would deeply impact the psyche of youth by promoting culture of grievance, victim hood and terrorist heroism. Some of the means by which this literature has contributed to the radicalization of youth in J&K include distortion of historical facts, glorification of terrorists, vilification of security forces, religious radicalization, promotion of alienations pathway to violence and terrorism etc; and

Whereas; in the above context, 25 books have been identified that propagate false narrative and secessionism in J&K and need to be declared as 'forfeited' in terms of Section 98 of Bhartiya Nagarik Suraksha Sanhita 2023; and

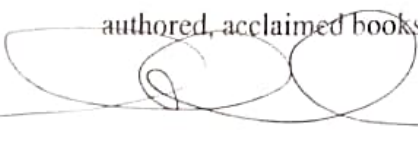
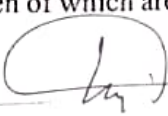


Whereas, the identified 25 books have been found to excite secessionism and endangering sovereignty and integrity of India, thereby, attracting the provisions of sections 152, 196 & 197 of Bhartiya Nyaya Sanhita 2023.

Now, therefore, in exercise of the powers conferred by section 98 of the Bhartiya Nyaya Sanhita 2023, the Government of Jammu and Kashmir hereby declares publication of 25 books, forming Annexure "A" to this Notification, and their copies or other documents to be forfeited to the Government.

By order of the Lieutenant Governor."

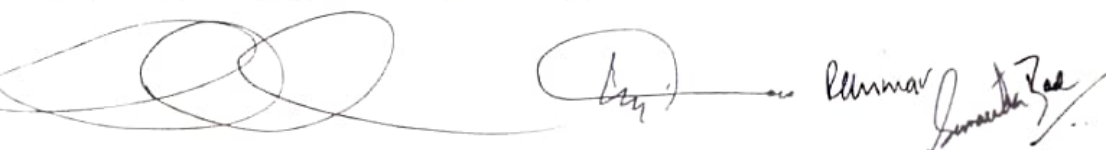
- B. That upon publication of the Impugned Order in the Gazette on 05.08.2025, the period of 2 months for filing an application seeking setting aside of the Impugned Order commenced, as provided in Sec. 99(1) BNSS.
- C. That the Petitioners are persons having an interest in the book(s) declared as forfeited by Annexure A to the Impugned Order, and in such capacity are competent persons to avail the remedy provided u/Sec. 99 BNSS. The same is demonstrated below:
- i. The Petitioner No. 1 is a Retd. Air Vice Marshal with the Indian Air Force. He is the recipient of the Ati Vishishta Seva Medal and the Vishishta Seva Medal. As a war veteran who served the country in two Indo-Pak wars and multiple combat missions on the western and eastern front, the Petitioner No. 1 takes an active interest in the literature and history related to the Kashmir region, from where he hails being a Kashmiri Pandit. He therefore has an interest in the books on Kashmiri history, geo-politics and social realities.
 - ii. The Petitioner No. 2 is the author of the books mentioned as forfeited under Serial No. 11 and Serial No. 15 of Annexure A to the Impugned Order, thereby having a direct interest in the same. Born and raised in Kolkata, he graduated with highest honours from Amherst College, Massachusetts, in 1992 and received his MA, MPhil and PhD (1998) from Columbia University, New York. Subsequently he was Professor of International and Comparative Politics at the London School of Economics and Political Science (LSE) for more than two decades. Professor Bose's publications include nine sole-authored, acclaimed books, seven of which are published by the world's most

  Umar Swastika

prestigious university presses: three by Harvard University Press, two by Yale University Press, and one each by Cambridge University Press and Oxford University Press. In addition to his activities as a professional academic, Petitioner No. 2 serves as the Executive Director of the Netaji Research Bureau, an internationally renowned institute of history, politics and international affairs situated in Kolkata's historic Netaji Bhawan. Petitioner No. 2 is Netaji's grandnephew and the grandson of Netaji's older brother Sarat Chandra Bose, who was Netaji's lifelong confidant and supporter and was himself an eminent freedom fighter and nationalist leader who spent eight years in the prisons of the British Raj.

- iii. The Petitioner No. 3 is an expert on conflict, peace-making and peace-building. She has worked on Jammu and Kashmir for 30 years and was Member of the Government-appointed Group of Interlocutors for Jammu and Kashmir (2010-2011). She is currently Co-Chair of the Forum for Human Rights in Jammu and Kashmir, which has brought out an annual report on the state of human rights for the past six years. Her updated book, *Paradise at War: A Political History of Jammu and Kashmir*, was published in 2024. She has also been on the Governing Board of the UN Institute for Training and Research and Chair of the Governing Council of the UN University.
- iv. The Petitioner No. 4 was the first Chief Information Commissioner of India under the Right to Information Act, and served as Indian Administrative Service officer of J&K cadre from 1968 till his retirement in 2005. He also served as Secretary to the Govt of India in the Ministry of Panchayati Raj and is also a former Chairperson of the National Commission for Minorities from 2004 to 2010. He has also been Randolph Jennings Fellow of the US Institute of Peace (2003-2004) and is author of two books - *My Kashmir: The Dying of the Light* and *My Years with Rajiv: Triumph and Tragedy*.

D. That the books mentioned in the Annexure A to the Impugned Order are predominantly academic works of history and literature, and quite a few of them focus on the issues of women's empowerment, women's struggles and the history of



Kashmir's women. For instance, illustratively, the themes of some of the books are highlighted below:

- i. Political History of Kashmir and State formation: Books at Serial No. 3, 4, 8, 9, 11, 13, 14, 20, 22 and 25
- ii. Women's rights, women's empowerment and locating human rights in Kashmir: Books at Serial No. 1, 5, 10, 17 and 19
- iii. Exploring political solutions to the Kashmir dispute in the pre-2019 era: Books at Serial No. 4, 12, 15 and 23
- iv. The cloud of terrorism and militancy in Kashmir: Book at Serial No. 18

E. That the conspectus of the 25 books pertains largely to the socio-political life of Kashmir and the myriad political struggles interwoven into the cultural history of the valley. These books, most of which are works of academia, serve as records in the discipline of history. Aggrieved and constrained by the arbitrary, sweeping and unreasoned forfeiture of the 25 books mentioned in the Impugned Order, the Petitioners have invoked the specific remedy provided under Sec. 99 BNSS.

5. That the present Petition has been filed *inter-alia* on the following grounds, without prejudice to one another:

GROUND

a. **For that**, the Impugned Order is a sweeping, blanket order, bearing no reasons to demonstrate due application of mind to the contents of each of the 25 books forfeited in the said order.

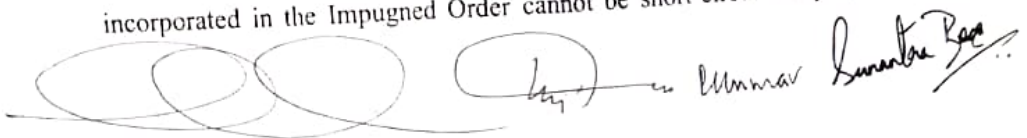
b. **For that**, the Impugned Order provides no grounds or basis to arrive at the conclusion that, "...25 books have been identified that propagate false narrative and secessionism in J&K, and need to be declared as forfeited..."

c. **For that**, the Impugned Order does not set out any portion(s) of the concerned books to demonstrate why the same have been determined to propagate "false narrative and secessionism". Mere broad statements reproducing statutory provisions or referencing the contents of statutory provisions, without depicting how the same has



been inferred from the content(s) of the book(s), does not meet the threshold of a 'reasoned order' envisaged by Sec. 98 BNSS.

- d. **For that**, the Impugned Order states that "25 books have been identified," without specifying the manner and mechanism in which the said books were identified. In such a scenario, the Impugned Order fails to meet the threshold of a reasoned order, as it relies on extraneous and undisclosed mechanisms to justify itself. It is settled law that an administrative or quasi-judicial order having civil consequences must disclose reasons which must form part of the order itself, and the reasons cannot be supplied at a later stage. Reliance is placed herein on *Mohinder Singh Gill vs Chief Election Commissioner* (1978) 1 SCC 405.
- e. **For that**, the onus is on the Respondent to demonstrate through reasons incorporated in the Impugned Order, what portion(s) of the 25 books have been identified as propagation of "false narrative and secessionism" and on what basis. Omnibus and opaque orders as in the present case without material particulars are an abuse of the legal process and cannot survive judicial scrutiny on the touchstone of fairness and reasonableness. The prima facie opinion of the State Government is required to be incorporated in the Impugned Order, only whereafter the onus would shift on the Petitioners to justify the contents of the books. Having failed to incorporate the reasons within the Impugned Order or refer to relevant and material information, the Respondent cannot now seek to expand the scope of the inquiry into documents or reasons which do not form part of the Impugned Order. As held in *State of Maharashtra vs Sangharaj Damodar Rupawate* (2010) 7 SCC 398, the scope of the inquiry before the High Court is to be limited to the reasons incorporated in the Impugned Order and no extraneous material can be relied on.
- f. **For that**, the Respondent having not cited the portion(s) of the book(s) which have been identified for the purposes of forfeiture, cannot expect the Petitioners to explain the entire contents of the books for the purposes of adjudication as envisaged under Sec. 99(1) BNSS. It was for the Respondent, through specific reasons required to be incorporated in the Impugned Order, to make out a case against each publication for its forfeiture. The procedural safeguard envisaged by requiring the reasons to be incorporated in the Impugned Order cannot be short-circuited by administrative



verbosity masquerading as reasons. The Respondent's failure to identify and incorporate the content(s) of the book(s) or even to refer to them in passing, which form the basis for the forfeiture as part of the Impugned Order is thus a fatal illegality which is not curable at this stage. In this regard reliance is placed on *Narayan Dass Indurakhya vs State of MP* (1972) 3 SCC 676 where the Hon'ble Supreme Court held,

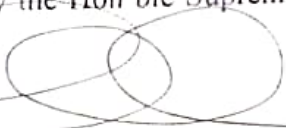
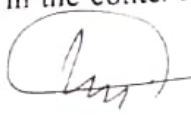
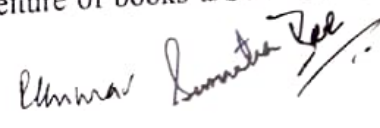
"According to the Oxford Dictionary the meaning of the word 'ground', in this connection must be "base, foundation, motive, valid reason." what the State Government did in this case in the opening paragraph of the order was merely to quote a portion of the words of s. 2 namely, that the books "questioned the territorial integrity and frontiers of India in a manner which is likely to be prejudicial to the interest of the safety or security of India". The order gives no indication of the facts or the statements or the representations contained in the book which according to the State Government offended Sec. 2. In the order itself there is no reference to any map or any text in the book which would come within the mischief of the said section."

...

There is a considerable body of statutory provisions which enable the State to curtail the liberty of the subject in the interest of the security of the State or forfeit books and documents when in the opinion of the Government, they promote class hatred, religious intolerance, disaffection against the State etc. In all such cases, instances of some whereof are given below the State Government has to give the grounds of its opinion. Clearly the grounds must be distinguished from the opinion. Grounds of the opinion must mean the conclusion of facts on which the opinion is based. There can be no conclusion of fact which has no reference to or is not ex facie based on any fact."

[Emphasis Supplied]

For that, there is a clear distinction in law between the "opinion" of the government and the "grounds" for forming the said opinion. The Impugned Order merely reproduces the opinion of the State Government without elucidating the grounds for forming the said opinion, as is mandated by law. This distinction has been explained by the Hon'ble Supreme Court in the context of forfeiture of books u/Sec. 99A of

the Cr.P.C. of 1898 which is *pari materia* Sec. 98 BNSS, in its judgment in *Arun Ranjan Ghose vs State of West Bengal* 59 CWN 495, later upheld by the Constitution Bench Judgment in *Harnam Das vs State of Uttar Pradesh* AIR 1961 SC 1662 as well as in *Narayan Dass Indurakhyia* (Supra):


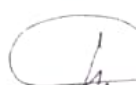
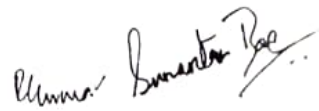
"It is useful to consider here what is meant by grounds of opinion. The formation of an opinion by Government is undoubtedly the ground for the action taken by them, but the grounds for the opinion are obviously different. The opinion, after it has been formed, furnishes a ground to Government for taking action contemplated, but the grounds on which the opinion itself is formed are and must be other grounds. Those grounds must necessarily be the import or the effect or the tendency of matters contained in the offending publication, either as a whole or in portions of it, as illustrated by passages which Government may choose." [Emphasis Supplied]

h. For that, the act of forfeiture is akin to a death sentence for the books, and the Impugned Order must therefore not only conform to the procedural safeguards of Sec. 98 and 99 BNSS, but also amount to a reasonable restriction in terms of Art. 19(2) on the freedom of speech and expression. It is needless to say that an order which does not meet the standard of a 'reasonable restriction' under Art. 19(2) of the Constitution would be an untenable and illegal encroachment upon the freedom of speech and expression guaranteed under Article 19(1)(a), which would not be saved merely by recourse to a statutory provision such as Sec. 98 BNSS. As such, the power u/Sec. 98 must be very narrowly and strictly interpreted to not fall foul of the mandate of Article 19 of the Constitution. This is fortified by the view of the Hon'ble Supreme Court in *State of Maharashtra vs Sangharaj Damodar Rupawate* (2010) 7 SCC 398 where it held,

"Undoubtedly, the power to forfeit a newspaper, book or document is a drastic power inasmuch as it not only has a direct impact upon the due exercise of a cherished right of freedom of speech and expression as envisaged in Article 19(1)(a) of the Constitution, it also clothes a police officer to seize the infringing copies of the book, document or newspaper and to search places where they are reasonably suspected to be found, again impinging upon the right of privacy. Therefore, the provision has to be construed strictly and

exercise of power under it has to be in the manner and according to the procedure laid down therein." [Emphasis Supplied]

- i. **For that**, the Impugned Order being a clear restriction on the fundamental freedom of speech and expression and the allied right to know, must also meet the standards of the proportionality test laid down by the Hon'ble Supreme Court in various judgments including *Modern Dental College & Research Centre vs State of Madhya Pradesh* (2016) 7 SCC 353, *KS Puttaswamy vs Union of India* (2017) 10 SCC 1, *KS Puttaswamy vs Union of India* (2019) 10 SCC 1, and *Gujarat Mazdoor Sabha vs State of Gujarat* (2020) 10 SCC 459.
- j. **For that**, the Hon'ble Supreme Court of India judicially reviewed internet shutdown orders in the UT of J&K, issued under the Telegraph Act and the Rules made thereunder, by applying the proportionality test in the case of *Anuradha Bhasin vs Union of India* (2020) 3 SCC 637 as the action of the State led to a curtailment on the freedom of speech and expression. Similarly, although the Impugned Order has been passed under a statutory regime provided in Sec. 98 BNSS, the same is not immune from a proportionality test and must meet the said standard to survive judicial review.
- k. **For that**, the Impugned Order seeks to enforce a complete forfeiture of 25 books, many of which are academic works of history and literature by highly acclaimed and celebrated writers, jurists, historians and academics. The Impugned Order does not cite the excerpts of the said books which it deems to be offending and which warrants the drastic act of forfeiture. It is submitted without prejudice that had the Respondent set out the offending portion(s) *qua* each book, it would then be open to the author / publisher of the said book(s) if they so desired to edit and rework the publications without requiring a blanket ban and forfeiture. Further, the authors and publishers would also have been able to defend and justify the said content in judicial review, had the same been incorporated in the Impugned Order. By not pointing to the specific portions of the books, the Impugned Order has clearly failed the "least restrictive measure" prong of the proportionality test and amounts therefore to an unreasonable restriction beyond the scope of Art. 19(2) of the Constitution of India.

1. For that, the Impugned Order falls foul of multiple "legal aspects" to be borne in mind while testing the validity of the Order / Notification u/Sec. 98 BNSS (earlier 95 Cr.P.C), as laid down by the Hon'ble Supreme Court in *State of Maharashtra vs Sangharaj Damodar Rupawate* (2010) 7 SCC 398. The following criteria were laid down by the Hon'ble Supreme Court in Para 37:

"...Nonetheless the following legal aspects can be kept in mind while examining the validity of such a notification:

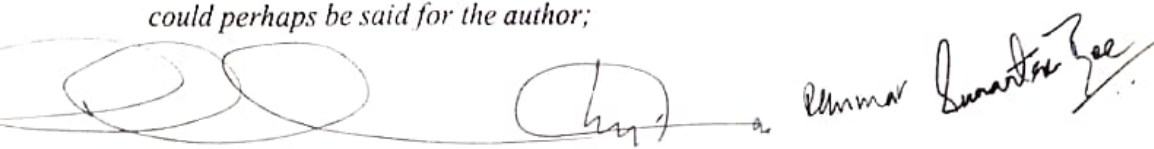
(i) The statement of the grounds of its opinion by the State Government is mandatory and a total absence thereof would vitiate the declaration of forfeiture. Therefore, the grounds of Government's opinion must be stated in the notification issued under Section 95 of the Code and while testing the validity of the notification the Court has to confine the inquiry to the grounds so disclosed;

(ii) Grounds of opinion must mean conclusion of facts on which opinion is based. Grounds must necessarily be the import or the effect or the tendency of matters contained in the offending publication, either as a whole or in portions of it, as illustrated by passages which Government may choose. A mere repetition of an opinion or reproduction of the Section will not answer the requirement of a valid notification. However, at the same time, it is not necessary that the notification must bear a verbatim record of the forfeited material or give a detail gist thereof;

(iii) The validity of the order of forfeiture would depend on the merits of the grounds. The High Court would set aside the order of forfeiture if there are no grounds of opinion because if there are no grounds of opinion it cannot be satisfied that the grounds given by the Government justify the order. However, it is not the duty of the High Court to find for itself whether the book contained any such matter whatsoever;

(iv) The State cannot extract stray sentences of portions of the book and come to a finding that the said book as a whole ought to be forfeited;

(v) The intention of the author has to be gathered from the language, contents and import of the offending material. If the allegations made in the offending article are based on folklore, tradition or history something in extenuation could perhaps be said for the author;



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(vi) If the writing is calculated to promote feelings of enmity or hatred, it is no defence to a charge under Section 153-A of the IPC that the writing contains a truthful account of past events or is otherwise supported by good authority. Adherence to the strict path of history is not by itself a complete defence to a charge under Section 153-A of the IPC;

(vii) Section 95(1) of the Code postulates that the ingredients of the offences stated in the notification should "appear" to the Government to be present. It does not require that it should be "proved" to the satisfaction of the Government that all requirements of punishing sections, including mens rea, were fully established;

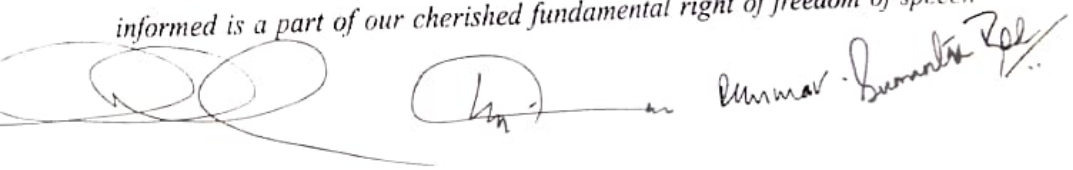
(viii) The onus to dislodge and rebut the prima facie opinion of the Government that the offending publication comes within the ambit of the relevant offence, including its requirement of intent is on the applicant and such intention has to be gathered from the language, contents and import thereof;

(ix) The effect of the words used in the offending material must be judged from the standards of reasonable, strong-minded, firm and courageous men, and not those of weak and vacillating minds, nor of those who scent danger in every hostile point of view. The class of readers for whom the book is primarily meant would also be relevant for judging the probable consequences of the writing.

[Emphasis Supplied]

n. For that, the Full Bench decision of the Bombay High Court in Sangharaj Damodar Rupawate vs Nitin Gadre 2007 SCC Online Bom 416, later upheld in State of Maharashtra vs Sangharaj Damodar Rupawate (2010) 7 SCC 398, has categorically held that a Notification u/Sec. 95 Cr.P.C. (98 BNSS) can be challenged by "any citizen", and as such the present petition is maintainable and the Petitioners have sufficient locus. It was held,

"12. In our opinion it will not be possible to place such restricted meaning to the expression 'any person having an interest'. The right of a citizen to be informed is a part of our cherished fundamental right of freedom of speech



and expression. Even if section 95 amounts to a reasonable restriction, yet the Government must satisfy that the act of forfeiture was according to law. A citizen therefore, having an interest in the right to be informed, as a larger part of his right of freedom of speech and expression, will be a person having any interest. Even otherwise after the judgment in *Anbazhagan (supra)* the right of these petitioners as "persons having an interest" cannot be denied. Our fundamental freedoms contained in Part III, should not be kept in wraps by using the outdated tool of "locus standi". [Emphasis Supplied]

- n. For that, the Impugned Order states mechanically that the 25 books attract the provisions of Sec. 152, 196 and 197 of the Bharatiya Nyaya Sanhita, 2023 (BNS), without reference to even a singular FIR having been registered against the publication of all 25 books. It is pertinent to note that the publications in the list of 25 books range from the year 1927 upto the year 2023. In all these years, not a single FIR has been registered against the authors or publishers of the said books, to the best of the Petitioners' knowledge and as per information publicly available. The Impugned Order also makes bald reference to the penal provisions without any indication of any pending FIR or investigation against all 25 books.
- o. For that, Sec. 152 BNS is the "de-colonized" version of Sec. 124A IPC brought in with the new criminal laws, which is presently the subject matter of a constitutional challenge before the Hon'ble Supreme Court of India. In the lead matter in the said batch of cases, the operation of Sec. 124 A IPC has been stayed by the Hon'ble Apex Court vide Order dated 10.05.2022. With regard to Sec. 152 BNS, the Hon'ble High Court of Rajasthan at Jodhpur in *Tejender Pal Singh vs State of Rajasthan* 2024:RJ-JD:34845 has held,


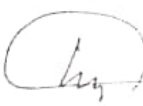


"12.1. Perusal of section 152, *ibid*, reveals that same is aimed at protecting the unity, sovereignty, and integrity of India. This provision has its genesis to section 124A (sedition) of repealed IPC. Offence of Sedition was originally introduced in year 1870 (after 10 years of enactment of IOC in 1860) by the British Government for punishing the acts of hatred or contempt or disaffection towards Her Majesty or the Crown. The offence of sedition under section 124-A of IPC has though been done away in the BNS, but a new

(22)

provision in section 152, somewhat similarly worded, has been brought in by the law makers in Parliament. It criminalizes acts or attempts that incite secession, armed rebellion, or subversive activities, or encourage separatist sentiments that threaten the country's stability. Prima facie, it appears to be rather reintroducing section 124-A (sedition) by another name. It is rather debatable as to which of two provisions i.e. the one repealed (sedition) or the one reintroduced is more stringent. Pertinently, punishment under section 124-A of IPC was either imprisonment for life or upto three years in prison to which fine could also be added. Whereas, punishment under section 152 of BNS is either imprisonment for life or upto seven years in prison and shall also have the mandatory liability of fine. Be that as it may, both the provisions are worded stringently, and I am thus of the mind that a high threshold of intent (*mens rea*), ensuring that only deliberate actions with malicious intent would fall under its ambit. Thus the provision (section 152 of BNS) has to be read and meant and interpreted in a way that it mandatorily requires that the act must be committed purposely or knowingly i.e. Mens Rea (Intent). Alleged acts which are covered within the ambit of the section are use of words (spoken or written) and/or signs or visible representation and/or financial means or any other methods and/or encouragement of secession, rebellion, or subversive activities and/or acts that directly or indirectly endanger India's sovereignty, unity, or integrity. The provision thus seeks to maintain national integrity and prevent destabilization. Given India's diversity and history of secessionist movements, the legislature aims to curb acts that could fragment the country.

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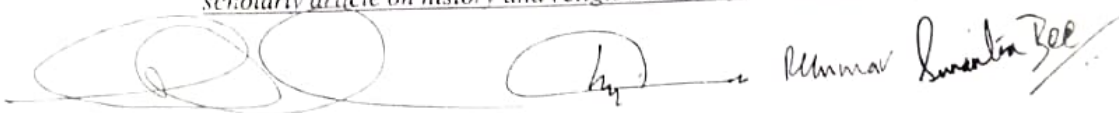
12.4. To sum up, laws restricting speech must be narrowly tailored. There must be a direct and imminent connection between the speech and the likelihood of rebellion or secession to invoke such provisions. Legitimate dissent or criticism cannot be equated with sedition or anti-national acts. For instance, in cases involving Section 124A (sedition) of the repealed IPC, casual or rhetorical statements did not amount to sedition, unless, of course, they incite violence or public disorder. To my mind, a similar approach would apply to Section 152. Its broad phrasing necessitates careful application to prevent misuse or overreach. The provision must be interpreted in conjunction with

the constitutional rights to free speech and expression to ensure it does not infringe on democratic freedoms. One must stay mindful that the provision is used as a shield for national security and not a sword against legitimate dissent." [Emphasis Supplied]

- p. **For that**, the offence punishable u/Sec. 197 and 198 BNS, require the published content to meet the standards laid down in the judgments of the Hon'ble Supreme Court in *Manzar Sayeed Khan vs State of Maharashtra* (2007) 5 SCC 1, *Amish Devgan vs Union of India* 2021 1 SCC 1, *Patricia Mukhim vs State of Meghalaya* AIR 2021 SC 1632, and *Javed Ahmad Hajam vs State of Maharashtra* 2024 4 SCC 156. The Impugned Order fails to demonstrate how the ingredients of the offence punishable under Sec. 197 and 198 BNS (earlier 153-A and 153-B IPC) are attracted to any portions of the 25 books.
- q. **For that**, the power u/Sec. 98 BNSS cannot be used to erase the lived realities and people's histories, as that would amount to an erasure of the nation's history which violently militates against the people's right to know – an inalienable facet to the right to freedom of speech and expression guaranteed under Part III of the Constitution in Article 19(1)(a). Works of history, published through academic rigour, research and thoroughness, are open to be debated, but cannot be erased on the basis of fleeting sensitivities that may get hurt of people incapable of engaging with dissenting or alternate views. The use of Sec. 98 BNSS (Sec. 95 Cr.P.C.) to erase such history and narratives which are unpalatable to a section of the population, even though rooted in academic research and writing, has been held to be a mala fide use of the power which cannot survive judicial review. Reliance is placed in this regard on the Full Bench judgment of the High Court of Bombay in *M/s Varsha Publications Pvt Ltd vs State of Maharashtra* 1983 SCC OnLine Bom 312, where it was held by the Full Bench that,

"We have already observed that the very purpose of writing the article is a sort of historical research and it is based on a number of reference books and other material. It is true that sometimes in a given case even a truthful account may come within the mischief of S. 153-A. But, this will be too broad a proposition. Different considerations will prevail when we are to consider a scholarly article on history and religion based upon research with the help of


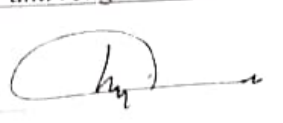
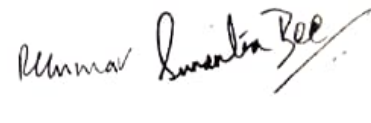


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the constitutional rights to free speech and expression to ensure it does not infringe on democratic freedoms. One must stay mindful that the provision is used as a shield for national security and not a sword against legitimate dissent." [Emphasis Supplied]

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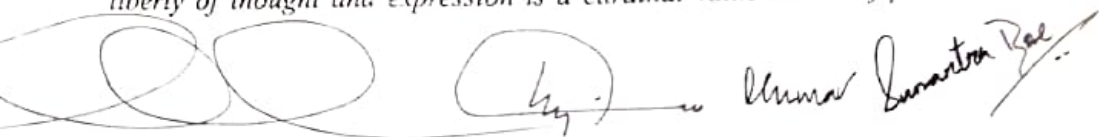
"We have already observed that the very purpose of writing the article is a sort of historical research and it is based on a number of reference books and other material. It is true that sometimes in a given case even a truthful account may come within the mischief of S. 153-A. But, this will be too broad a proposition. Different considerations will prevail when we are to consider a scholarly article on history and religion based upon research with the help of

a number of reference books. It will be very difficult for the State to contend that a narration of history would promote violence, enmity or hatred. If such a contention is accepted, a day will come when that part of history which is unpalatable to a particular religion will have to be kept in cold storage on the pretext that the publication of such history would constitute an offence punishable under S. 153-A of the I.P.C. We do not think that the scope of S. 153-A can be enlarged to such an extent with a view to thwart history. For obvious reasons, history and historical events cannot be allowed to be looked as a secret on a specious plea that if the history is made known to a person who is interested to know the history, there is likelihood of someone else being hurt. Similarly, an article containing a historical research cannot be allowed to be thwarted on such a plea that the publication of such a material would be hit by S. 153-A. Otherwise, the position will be very precarious. A nation will have to forget its own history and in due course the nation will have no history at all. This result cannot be said to have been intended by the Legislature when S. 153-A of the I.P.C. and S. 95 of the Cr. P.C. were enacted. If anybody intends to extinguish the history (by prohibiting its publication) of the nation on the pretext of taking action under the above sections, his act will have to be treated as mala fide one." [Emphasis Supplied]

r. **For that**, the Constitution of India values the liberty of thought and expression as a fundamental right, and the power u/Sec. 98 BNSS cannot be utilized with such a broad sweep so as to make the right itself illusory. In this context, the Hon'ble Supreme Court has in the case of *Imran Pratapgadhi vs State of Gujarat* 2025 SCC Online SC 678 held,

"In *Shreya Singhal v. Union of India*, this Court was examining the vires of Section 66A of the Information Technology Act, 2000 which provided for punishment for sending offensive messages through communication service etc. In the above context the Bench referred to Article 19(1)(a), Article 19(2), Preamble to the Constitution of India and the previous decisions of this Court and after a threadbare analysis observed that when it comes to democracy, liberty of thought and expression is a cardinal value that is of paramount




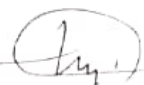
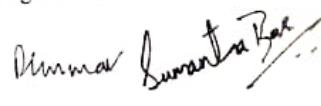
significance under our constitutional scheme. It is one of the most basic human rights."

- s. For that, the judgment in *Imran Pratapgedhi* (Supra) also highlights the importance of freedom of speech and thought for living a life of dignity, even if the speech is disliked by a large majority of persons. It held,

"Free expression of thoughts and views by individuals or groups of individuals is an integral part of a healthy, civilised society. Without freedom of expression of thoughts and views, it is impossible to lead a dignified life guaranteed by Article 21 of the Constitution. In a healthy democracy, the views, opinions or thoughts expressed by an individual or group of individuals must be countered by expressing another point of view. even if a large number of persons dislike the views expressed by another, the right of the person to express the views must be respected and protected. Literature including poetry, dramas, films, stage shows, satire and art, make the life of human beings more meaningful. The Courts are duty-bound to uphold and enforce fundamental rights guaranteed under the Constitution of India. Sometimes, we, the Judges, may not like spoken or written words. But, still, it is our duty to uphold the fundamental right under Article 19 (1)(a). We Judges are also under an obligation to uphold the Constitution and respect its ideals. If the police or executive fail to honour and protect the fundamental rights guaranteed under Article 19 (1)(a) of the Constitution, it is the duty of the Courts to step in and protect the fundamental rights. There is no other institution which can uphold the fundamental rights of the citizens."

[Emphasis Supplied]

- t. For that, the Petitioners seek to protect and preserve academic works which serve as contemporary documentation of history – irrespective of whether it is palatable or unpalatable to a section of the polity. From time immemorial, contemporary literature has served as the documentation of the times for historical study. There are innumerable instances of academic disagreements, debates and clashes on historical perspectives and contested facts. Arguably the largest selling books and the most

  a. 

heavily read literature across cultures are a mix of history, mythology, religiosity and state formation. Seeking to ban historical works is a disservice not only to the right to know of today's citizenry, but also of the right to know of future generations. It is an assault on the discipline of documentation and history writing. In the marketplace of ideas, old and outdated or wrong publications are readily replaced by newer works which appeal more to public reason and consciousness. If the Respondent contends that it has disagreements with the history documented in all of the 25 books, it has the State resources of the mighty Government to commission research and writing to foster an academic debate on the facts narrated in the said books. For it however to resort to a pre-constitutional imagination of forfeiture of books to simply erase historic literature is an act unbecoming of a constitutionally guided State functionary.

u. **For that** the Petitioners seek leave to rely on additional grounds at the stage of oral arguments.

6. That the present petition is filed within time, being within 60 days of the promulgation of the impugned Order in terms of Sec. 99 BNSS.

7. That the Petitioners have not filed any other petition seeking the same or similar reliefs either in this Hon'ble Court or any other court.

8. That the Petition is supported by duly sworn affidavits of the Petitioners.

PRAYER

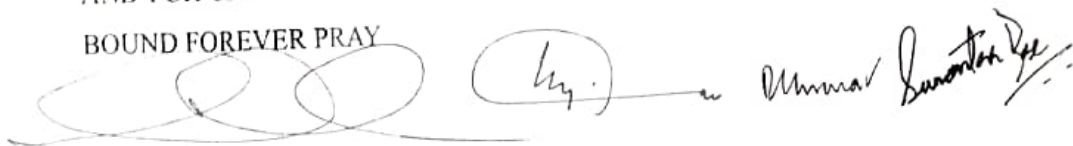
In light of the facts and circumstances stated hereinabove, and the contentions advanced, it is most humbly prayed that this Hon'ble Court may be pleased to:

A. Quash and set aside Notification u/Sec. 98 BNSS, 2023, issued vide S.O. 203 dated 05.08.2025 published in the Gazette No. HOME-ISA/223/2025-11(7655892) and direct return of all copies of books forfeited thereunder; and

B. Pass any other order(s) as this Hon'ble Court may deem fit and necessary.

AND FOR THIS ACT OF KINDNESS THE PETITIONERS SHALL AS IN DUTY

BOUND FOREVER PRAY



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PETITIONERS

THROUGH: *Vrinda from*

Vrinda Grover, Adil Pandit,

Soutik Banerjee and Devika Tulsiani

COUNSEL FOR PETITIONERS

SRINAGAR

DATED: 26-9-25

Annexure - I

Government of Jammu and Kashmir
Home Department
Civil Secretariat, J&K

NOTIFICATION

Srinagar, the 5th August, 2025

S.O. 203.-Whereas; it has come to the notice of the Government, that certain literature propagates false narrative and secessionism in the Jammu and Kashmir. Available evidence based on investigations and credible intelligence unflinchingly indicate that a significant driver behind youth participation in violence and terrorism has been the systematic dissemination of false narratives and secessionist literature by its persistent internal circulation, often disguised as historical or political commentary, while playing a critical role in misguiding the youth, glorifying terrorism and inciting violence against Indian State. This literature would deeply impact the psyche of youth by promoting culture of grievance, victim hood and terrorist heroism. Some of the means by which this literature has contributed to the radicalization of youth in J&K include distortion of historical facts, glorification of terrorists, vilification of security forces, religious radicalization, promotion of alienation, pathway to violence and terrorism etc; and

Whereas; in the above context, 25 books have been identified that propagate false narrative and secessionism in J&K and need to be declared as 'forfeited' in terms of Section 98 of Bhartiya Nagarik Suraksha Sanhita 2023; and

Whereas; the identified 25 books have been found to excite secessionism and endangering sovereignty and integrity of India, thereby, attracting the provisions of sections 152, 196 & 197 of Bhartiya Nyaya Sanhita 2023.

Now, therefore, in exercise of the powers conferred by section 98 of the Bhartiya Nyaya Sanhita 2023, the Government of Jammu and Kashmir hereby declares publication of 25 books, forming Annexure "A" to this Notification, and their copies or other documents to be forfeited to the Government.

By order of the Lieutenant Governor.

Sd/-

(Chandraker Bharti), IAS
Principal Secretary to the Government,

No. HOME-ISA/223/2025-11(7655892)

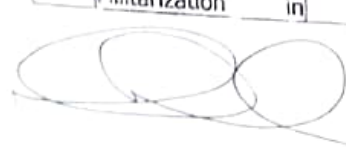
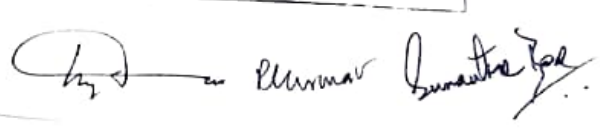
Dated: 05.08.2025

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Annexure-A


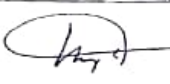
LIST OF BOOKS

S. No.	Name of the Book	Name of Author	Publisher
1.	Human Rights Violations in Kashmir	Piotr Balcerowicz and Agnieszka Kuszewska	Routledge (Manohar Publishers & Distributors)
2.	Kashmiri's Fight for Freedom	Mohd Yosuf Saraf	Feroze Sons Pakistan
3.	Colonizing Kashmir, State-Building under Indian occupation	Hafsa Kanjwal	Stanford University Press
4.	Kashmir Politics and Plebiscite	Dr. Abdul Jabbar Gockhar, i	Gulshan Books Kashmir
5.	Do You Remember Kunan Poshpora?	Essar Batool & others	Zubaan Books
6.	Mujahid ki Azaan	Imam Hasan Al-Bana Shaheed edited by: Maulan Mohammad Enayatullah Subhani	Markazi Maktaba Islami Publishers Delhi
7.	Al Jihadul fil Islam	Moulana Moudadi	Darul Musannifeen-Markazi Maktaba Islami Publishers Delhi
8.	Independent Kashmir	Christopher Snedden	Manchester University Press and Sanctum Books Delhi.
9.	Resisting Occupation Kashmir	Haley Duschinski, Mona Bhat, Ather Zia and Cynthia Mahmood	University of Pennsylvania Press
10.	Between Democracy and Nation (Gender and Militarization in	Seema Kazi	Oxford University Press-Women Unlimited New Delhi


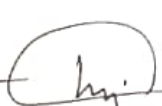
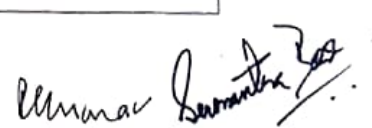
 

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	Kashmir)		
11.	Contested Lands	Sumantra Bose	Harper Collins Publishers India Gurugram Haryana
12.	In Search of a Future (The Story of Kasimir)	David Devadas	Viking Penguin
13.	Kashmir in Conflict (India, Pakistan and the unending War)	Victoria Schofield	Bloomsbury Academic India
14.	The Kashmir Dispute 1947-2012	A.G. Noorani	Tulika Books Chennai Tamil Nadu
15.	Kashmir at the Cross Roads (Inside a 21st Century Conflict)	Sumantra Bose	Pan Macmillan India, New Delhi
16.	A Dismantled State (The Untold Story of Kashmir after Article 370)	Anuradha Bhasin	Harper Collins Publishers India, Gurugram Haryana
17.	Resisting Disappearance (Military Occupation & Women's Activism in Kashmir)	Ather Zia	Zubaan Publishers Pvt. Ltd. New Delhi
18.	Confronting Terrorism	Stephen Pcohen Edited by: Maroof Raza	Penglun India Darya Gunj New Delhi.
19.	Freedom Captivity (Negotiations of belonging along Kashmiri Frontier)	in Radhika Gupta	Cambridge University Press Pvt. Ltd New Delhi
20.	Kashmir (The case for Freedom)	Tariq Ali, Hilal Bhatt, Angana P. Chatterji, Pankaj Mishra and Arundhati Roy	Verso Books
21.	Azadi	Arundhati Roy	Penglun India Darya Gunj, New Delhi.

  Sumantra Bose

22.	USA and Kashmir	Dr. Shamshad Shan	Gulshan Books
23.	Law & Conflict Resolution in Kashmir	Piotr Balcerowicz and Agnieszka Kuszewska	Routledge (Manohar Publishers & Distributors)
24.	Tarikh-i-Siyasat Kashmir	Dr. Afaq	Karwan-e-Tahqiq-o-Saqafat Kashmir
25.	Kashmir & the future of South Asia	Edited by: Sugata Bose & Ayesha Jalal	Routledge (Manohar Publishers & Distributors)

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BEFORE THE HON'BLE HIGH COURT OF JAMMU & KASHMIR AND
LADAKH AT SRINAGAR

CRM. (M) NO. _____ OF 2025

CRL. (M) NO. _____ OF 2025

IN THE CASE OF:

1. Kapil Kak

Air Vice Marshal (Retd.), Indian Air
Force, aged about 84 years,
S/o Dr. Shyam Lal Kak,
R/o A-31, Sec - 21, Noida, Uttar
Pradesh - 201301

(Petitioner No. 1)

2. Dr. Sumantra Bose

Aged about 57 years,
S/o Sisir Kumar Bose
R/o 90 Sarat Bose Road, Bnawanipur,
Kolkata - 700025

(Petitioner No. 2)

3. Dr. Radha Kumar

Aged about 72 years
D/o Lovraj Kumar
R/o 33, Anand Lok, New Delhi -
110003

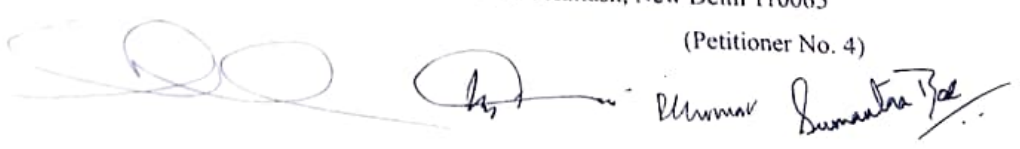
(Petitioner No. 3)

4. Wajahat

Habibullah

Aged about 79 years
S/o Maj. Gen. Enaith Habibullah
R/o 529 Mt Kailash, Tower III
East of Kailash, New Delhi 110065

(Petitioner No. 4)



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Vs.

1. Government of Jammu and
Kashmir

Home Department, Civil Secretariat,
Jammu & Kashmir

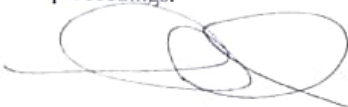



(Respondent)

IN THE MATTER OF: APPLICATION FOR INTERIM STAY

MAY IT PLEASE YOUR LORDSHIPS,

The Applicants herein humbly submit as under:

1. That the accompanying petition has been filed u/Sec. 99 read with Sec. 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, (BNSS), seeking quashing and setting aside of Notification u/Sec. 98 BNSS, 2023, issued vide S.O. 203 dated 05.08.2025 published in the Gazette No. HOME-ISA/223/2025-11(7655892), hereinafter referred to as 'Impugned Order'.
2. That the contents of the accompanying petition may be read as part of the present application, and the same is not being reproduced herein for the sake of brevity.
3. That under the aegis of the Impugned Order, by operation of Sec. 98 BNSS, any police officer is empowered to seize the 25 books wherever found in India, and any Magistrate may authorize police officers to enter into and search premises where it is reasonably suspected that any copy of the 25 books may be found. As such, by virtue of the Impugned Order, the 25 books enlisted therein are likely to be abandoned, seized and erased from circulation in an irreversible manner. It is submitted that Sec. 98 and 99 BNSS do not provide any mechanism for the storage and preservation of the forfeited books for any time period pending the adjudication of the challenge to the forfeiture order. As such, it would be in the interest of justice to stay the operation of the Impugned Order during the pendency of the present proceedings.

4. That the 25 books mentioned in the Impugned Order were published between 1927 and 2023. As such, there is no urgency for the implementation of the forfeiture order, given that the books have been in wide circulation for a long period of time and a stay on operation of the Impugned Order will not in any manner cause prejudice to the Respondent, while the execution of the Order would cause irreversible harm to the public at large.
5. That the present application is *bona fide* and in the interest of justice.
6. That the present application is duly supported by affidavit.

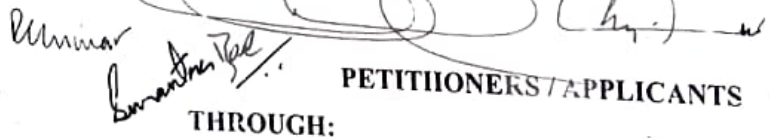
PRAYER

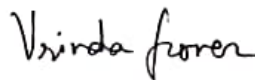
In light of the facts and circumstances stated hereinabove, it is most humbly prayed that this Hon'ble Court may be pleased to:

A. Direct that till the disposal of the captioned proceedings, the operation of the Notification u/Sec. 98 BNSS, 2023, issued vide S.O. 203 dated 05.08.2025 published in the Gazette No. HOME-ISA/223/2025-11(7655892) be stayed and kept in abeyance; and

B. Pass any other order(s) as this Hon'ble Court may deem fit and necessary.

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


PETITIONERS/APPLICANTS
THROUGH:



Vrinda Grover, Adil Pandit,
Soutik Banerjee and Devika Tulsiani
COUNSEL FOR PETITIONERS / APPLICANTS

SRINAGAR

DATED: 26-7-25