

IN THE SUPREME COURT OF INDIA

[S.C.R. ORDER XXII RULE 2(1)]

EXTRAORDINARY CRIMINAL WRIT JURISDICTION

WRIT PETITION (CRIMINAL) NO.: _____ OF 2020

[In the Matter of Public Interest Litigation]

IN THE MATTER OF:

1. **SHASHANK SHEKHAR JHA**
S/o SHRI S. K. JHA
AGED 26 YEARS
R/O 156/16, AMRIT PURI,
EAST OF KAILASH,
NEW DELHI-110065 ...PETITIONER No. 1

2. **SAVIO RODRIGUES**
S/o SHRI IGNATIUS ROSARIO RODRIGUES,
AGED 44 YEARS
R/O TRIDENTIA PANACHE,
A-407, NEAR CHINMAYA MISSION,
GOGOL, MARGAO, GOA-403601 ...PETITIONER No. 2

VERSUS

1. **INDIAN NATIONAL CONGRESS
THROUGH GENERAL SECRETARY**
24, AKBAR ROAD,
NEW DELHI-110001 ... RESPONDENT NO. 1

2. **SMT SONIA GANDHI**
W/O LATE SH RAJIV GANDHI,
10 JANPATH,
NEW DELHI-110001 ...RESPONDENT NO. 2

3. **SH RAHUL GANDHI**
S/O LATE SH RAJIV GANDHI,
12, TUGHLAK LANE,
NEW DELHI-110011 ...RESPONDENT NO. 3

4. **UNION OF INDIA**

THROUGH CABINET SECRETARIAT
MINISTRY OF HOME AFFAIRS,
SHASTRI BHAWAN
RAJENDRA PRASAD ROAD
NEW DELHI-110001

...RESPONDENT NO. 4

TO,

THE HON'BLE CHIEF JUSTICE OF INDIA

AD HIS COMPANION JUSTICES OF

THE SUPREME COURT OF INDIA

THE HUMBLE PETITION OF THE

PETITIONER ABOVE-NAMED

MOST RESPECTFULLY SHEWETH:

1. The present Writ Petition under Article 32 of the Constitution of Bharat is being filed by the Petitioner to enforce fundamental rights, particularly the Right to Protection of life and personal liberty (Article 21).

ARRAY OF PARTIES

2. That, the present writ petition is filed under Article 32 of the Constitution of Bharat and is being filed by way of a

Public Interest Litigation by the petitioner who does not have any personal interest over the subject-matter.

- 3.** That the petitioner No. 1 is a practicing advocate enrolled with Bar Council of Bharat and is acting as an officer of the court and is concerned about the overall development of the country, its citizens, children, human rights and overall growth of the Bharat.
- 4.** That the petitioner No. 2 is a journalist and is the Founder & Editor-in-Chief of GoaChronicle, a global online news portal and is acting as the forth pillar of the democracy i.e. Media and is concerned about the overall development of the country, its citizens, children, human rights and overall growth of the Bharat.
- 5.** That the petitioners are filing the present petition on their own and not at the instance of anyone else. Petitioners don't have any personal interest or any personal gain or private motive or any other oblique reason in filing this Writ Petitioner in Public Interest.
- 6.** That the petitioners are not involved in any other civil or criminal or revenue litigation, which could have legal nexus with the issues involved in the present Petition.

- 7.** The Respondent No. 1 is the Indian National Congress, represented by its General Secretary and is the main party responsible in this matter whereas the Respondent No. 2 and Respondent No. 3 are the Interim President and Former President of Respondent No. 1 respectively and were holding the position of President and General Secretary of Respondent No. 1 at the time of signing of agreement.
- 8.** The Respondent No. 4 is the Union of India represented by through Cabinet Secretariat Ministry of Home Affairs.
- 9.** That the Respondents or concerned government authorities were not moved for any relief sought in this Petition, since Bharat is under Lockdown due to the Pandemic named Covid-19 and it would have been difficult to approach the concerned government authorities in such time. Therefore, it was not logical & feasible to move the concerned governments for an immediate and effective relief.
- 10.** That the Respondents were not moved for any relief sought in this Petition, since Political Parties in Bharat

are exempted from the preview of Right to Information Act, 2005. Therefore, it was not logical to move the application under RTI Act.

FACTS OF THE CASE:

- 11.** The brief facts that give rise to the present Writ Petition is Right to Protection of life and personal liberty (Article 21).
- 12.** That the Petitioners firmly believe that the Nation's security cannot and shouldn't be compromised by any one. Therefore, this Writ Petition has been moved under Article 32 of the Constitution of Bharat, which seeks to bring transparency and clarity regarding the agreement signed between the Respondent No. 1 and the Communist Party of China (Herein CPC) which is also the de-facto government of People's Republic of China (Herein China).
- 13.** Respondent No. 1 is The Indian National Congress (INC, often called the Congress Party or simply Congress) is a political party in Bharat with widespread roots. Founded in 1885, Respondent No. 1 led India to independence from Great Britain. After Bharat's independence in 1947, it formed the union government, and many state governments and subsequently became the dominant

political party of Bharat. That as of 2020, in the 17 general elections since independence, it has won an outright majority on seven occasions and has led the ruling coalition a further three times, heading the central government for more than 54 years and there have been six Prime Ministers from the party.

- 14.** Communist Party of China (CPC) on the other hand is a political party which was formed in 1921 and has taken over the rule of China in year 1949 and since then is the de-facto government of China due to lack of democracy there.
- 15.** That the United Progressive Alliance (UPA) is a coalition of Indian political parties which was formed right after the General Election in 2004. UPA is led by the Respondent No. 1 and the Respondent No. 2 has been made the chairperson of the UPA coalition.
- 16.** That the petition pertains to agreement signed during UPA rule on 07.08.2008, between the Respondent No. 1 and the Communist Party of China (CPC) in Beijing for exchanging high-level information and co-operation between them. The Memorandum of Understanding (MoU)

also provided the two parties with the “opportunity to consult each other on important bilateral, regional and international developments”.

- 17.** As per the reports published in various media portals, the said MoU was signed between Respondent No. 1 and China. The deal for Respondent No. 1 was signed by Respondent No. 3 in presence of Respondent No. 2. Deal for China was signed by Xi Jinping, President of China, who was then the Vice-President of China, was part of Chinese Delegation when Wanj Jia Rui, International Department of CPC signed the deal on behalf of the Chinese Government. That the said MoU was signed between the parties after a long meeting between Respondent No. 2 & 3 with Xi Jinping and other senior leaders of the Communist Party of China to discuss issues of mutual interest.
- 18.** And that in 2008, Respondent No. 2 had visited Beijing, China along with Respondent No. 3, her daughter Priyanka Vadra, Son-in-Law Robert Vadra and their two children to attend the opening of the Olympic Games.

- 19.** That the Respondent No. 2 had led a Congress delegation to Beijing at the invitation of the CPC and interacted with the then Chinese President Hu Jintao and Premier Wen Jiabao besides others senior members of the ruling party between 25.10.2007 to 29.10.2007.
- 20.** That various media houses reported that there occurred multiple intrusions/faceoff (nearly around 600) between 2008 to 2013 from China's side in Bharat when UPA was ruling the Nation and it is a matter of record that the MoU signed between China and Respondent No. 1 was a party to party agreement despite of the fact that both were ruling party which may have matter involving national importance.
- 21.** That the Petitioner No. 2 has in his editorial dated 18.06.2020 published in *GoaChronicle* have demanded Respondent No. 3 to make the said MoU public however nothing of that sort have happened.
- 22.** That on 19.06.2020, Petitioner No. 2 in a Panel Discussion with Senior Journalist Sh Arnab Goswami at *Republic TV* have publically asked the Respondent No. 3 to make the

said MoU public however nothing of that sort have happened.

23. That on 22.06.2020, Petitioner No. 2 in a Panel Discussion with Senior Journalist Sh Arnab Goswami at *Republic TV* have publically asked the Respondents again to make the said MoU public however nothing of that sort have happened.

24. In light of the aforesaid facts, the following issues have arisen:

A. Whether the Right to Information guaranteed to every Bharatiya could be snatched by a Political Party, even when it is concerned to the matter of National Interest?

B. Whether the Nation Security could be sabotaged by an agreement with the enemy state?

C. Whether the agreement/MoU could be investigated by National Investigation Agency (NIA) under the Unlawful Activities (Prevention) Act, 1967 and secure the agreement?

25. FOUNDATIONS:

- i. That despite of having a hostile relation with China, Respondent No. 1 had signed an agreement when it was ruling the collision led government and hidden the facts and details of the agreement with the country.
- ii. That the Respondent No. 1 which is the party in concern here has brought Right to Information Act in Bharat during its rule, yet it failed to be transparent in this matter which is of national importance.
- iii. That the Party concerned in this matter is one of the 6 National Political Party, which have governed Bharat for most number of times and was ruling the nation during the time said agreement/MoU was signed with China.
- iv. That the true spirit of liberty, equality, and fraternity could be achieved through medium of transparency and proper investigation and just judgment which could be achieved only if the agreement is investigated and secured by National Investigation Agency (NIA) under the Unlawful Activities (Prevention) Act, 1967.
- v. That the Petitioner No. 2 has demanded the respondents to make the said MoU public, however no

heed was shown in that respect which shows the malafide intention of the Respondents.

- 26.** That the petitioner is moving this Petition for directions to protect and safeguard the fundamental rights of Bhartiya for Protection of Life and Personal Liberty under Article 21, since the Petitioner has no alternate efficacious remedy but to approach this Hon'ble Court under Article 32 of the Constitution of Bharat for the reliefs prayed for herein.
- 27.** That the petitioner has moved this petition for the first time in respect of the subject-matter, i.e., for issuance of directive in respect of safeguarding fundamental rights under Article 21 against the aforesaid Respondent.
- 28.** That this Hon'ble Court has the jurisdiction to entertain and try this Petition.
- 29.** That the petitioner crave for leave to alter, amend or add to this Petition.
- 30.** That the petitioner seeks leave to rely on documents, a list of which, along with true typed copies has been annexed to this Petition.
- 31.** That this Petition has been made bona fide and in the interest of justice.

32. That the petitioner has not filed any other Petition before this Hon'ble Court or before any other Court seeking the same relief.

P R A Y E R

THEREFORE in the light of the aforementioned factual and legal position, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- i. Issue a Writ, Order, or Direction in the nature of Mandamus or any other directing National Investigation Agency (NIA) to investigate the said agreement under Unlawful Activities (Prevention) Act, 1967;
- ii. In alternative, issue a Writ, Order, or Direction in the nature of Mandamus or any other directing the Central Bureau of Investigation to conduct the investigation monitored by this Hon'ble Court;
- iii. Pass such other order(s) as this Hon'ble Court may deem fit in the interest of justice and equity.

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

FILED BY:

