IN THE SUPREME COURT OF INDIA

(EXTRAORIDINARY CIVIL WRIT JURISDICTION)

I.A. NO. OF 2012

IN

CIVIL WRIT PETITION NO. 35 OF 2012

IN THE MATTER OF:

COMMON CAUSE PETITIONER

VERSUS

UNION OF INDIA AND ORS RESPONDENTS

APPLICATION FOR DIRECTIONS

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

1. The Petitioner had filed the above mentioned writ petition under Article 32 of the Constitution of India seeking a writ of mandamus to the Union of India to make reference under Section 5 (2) of the Human Rights Act, 1993 to the Hon'ble Supreme Court for holding an inquiry against Respondent No. 3 who is the Chairman of National Human Rights Commission.
2. The Campaign for Judicial Accountability and Reforms had written to the Prime Minister and the President of India vide letters dated 04.04.2011 enclosing the extensive evidence annexed to the above mentioned writ petition and requesting the Government to make reference under Section 5(2) of the Act to the Hon'ble Supreme Court for initiating inquiry

against Respondent No.3 but the Government did not respond to the said letters.

3. Vide order dated 10.05.2012 this Hon'ble Court had disposed of the said writ petition with the following observations and directions:

"We have given our thoughtful consideration to the solitary prayer made in the instant writ petition. It is not possible for us to accept the prayer made at the hands of the petitioner, for the simple reason that the first step contemplated under section 5(2) of the 1993 act is the satisfaction of the president of India. It is only upon the satisfaction of the president, that a reference can be made to the supreme court for holding an enquiry. This court had an occasion to deal with a similar controversy based on similar allegations against respondent no. 3 in Manohar Lal Sharma vs. Union of India [W.P. (C) No. 60 of 2011 decided on 7.5.2012], wherein this court, while disposing of the writ petition, required the petitioner to approach the competent authority under section 5(2) of the 1993 act. As noticed above, the satisfaction of the president of India is based on the advice of the council of ministers. The pleadings in the writ petition do not reveal, whether or not any deliberations have been conducted either by the president of India or by the Council of Ministers in response to the communication dated 4.4.2011 (addressed to the President of India, by the Campaign for Judicial Accountability and Reforms). It is also the submission of the learned counsel for

the Petitioner, that the petitioner has not been informed about the outcome of the communication dated 4.4.2011.

7. In the peculiar facts noticed hereinabove, we are satisfied, that the instant writ petition deserves to be disposed of by requesting the competent authority to take a decision on the communication dated 4.4.2011 (addressed by the Campaign for Judicial Accountability and Reforms, to the President of India). If the allegations, in the aforesaid determination, are found to be unworthy of any further action, the Petitioner shall be informed accordingly. Alternatively, the President of India, based on the advice of the Council of Ministers, may proceed with the matter in accordance with the mandate of section 5(2) of the 1993 Act.

8. Disposed of in the above said terms."

A copy of the said order dated 10.05.2012 of this Hon'ble Court is annexed herewith as **Annexure P/32.**

4. It is submitted that although 7 months have passed since the order of this Hon'ble Court, neither has the Petitioner been informed that the President of India, based on the advice of the Council of Ministers, has proceeded with the matter in accordance with the mandate of section 5(2) of the 1993 Act, nor has the Petitioner been told that the allegations raised in the said communication letter dated 04.04.2011 were found to be unworthy of any further action.

5. It is respectfully submitted that since the Competent Authority does not seem to have taken a decision on the communication

dated 04.04.2011 (addressed by the Campaign for Judicial Accountability and Reforms to the President of India) in terms of the order dated 10.05.2012 of this Hon'ble Court, it is imperative that a time frame be fixed for the Competent Authority to take a decision on the said communication dated 04.04.2011.

PRAYERS

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

(a) Direct the Competent Authority to take a decision on the communication dated 04.04.2011 addressed by the Campaign for Judicial Accountability and Reforms, to the President of India within 30 days and inform the Petitioner about the outcome;

(b) pass any other or further order/s as this Hon'ble Court may deem fit and proper in the facts and circumstance of this case.

Petitioner

Drawn by: Pyoli, Advocate (Prashant Bhushan)
New Delhi Through: Counsel for the Petitioner
Dated: .12.2012

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AFFIDAVIT

I, Kamal Jaswal, s/o Sh._____,R/o _____, aged _____ years do hereby solemnly state and affirm as under:

1. That I am the General Secretary of the Petitioner Organisation and being familiar with the facts and circumstances of the case am competent and authorized to swear this Affidavit on its behalf.
2. That I have read the contents of the accompanying application for directions comprising Pages ____ to ____. The contents of the same are are true and correct to the best of my knowledge. The same has been drafted by my counsel on my instructions.
3. I further state that the Annexure to the present Application is true copy of its original.

DEPONENT

VERIFICATION:

I, the above named Deponent, do hereby verify that the contents of the above Affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed there from.
Verified at New Delhi on this ___ day of December 2012.

DEPONENT