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PROFORMA FOR FIRST LISTING

SECTION X

The case pertains to (Please tick/check the correct box) :

- Central Act (Title) : CONSTITUTION OF INDIA
- Section : Article 21
- Central Rule (Title) :NA
- Rule No.(s) :NA
- State Act: (Title) :NA
- Section :NA
- State Rule (Title) :NA
- Rule No.(s) :NA
- Impugned Order (Date:) :NA
- High Court (Name) :NA
- Names of Judges :NA
- Tribunal/Authority (Name) :NA

-
1. **Nature of matter:** Civil Criminal
2. (a) Petitioner No.1 : Geetha PK
(b) E-mail ID : N.A.
(c) Mobile Number : N.A.
3. (a) Respondent No.1 : Union of India
(b) e-mail ID : not known
(c) Mobile Number : not known
4. (a) Main category classification : 08 Letter petition & PIL Matters
(b) Sub Classification : 0812 Others
5. Not to be listed before : NA

6. Similar/Pending matter
 (a) Similar disposed of matter with citation, if any & case details : No Similar Disposed Matter
 (b) Similar pending matter with case details : No Similar Pending Matter
7. **Criminal Matters:**
 (a) Whether accused/convict has surrendered : Yes No
 (b) FIR No. : NA
 (c) Police Station : NA
 (d) Sentence Awarded : NA
 (e) Sentence Undergone : NA
8. **Land Acquisition Matters:**
 a) Date of Section 4 notification : NA
 b) Date of Section 6 notification : NA
 c) Date of Section 17 notification : NA
9. **Tax Matters:** State the tax effect : NA
10. Special Category (first petitioner/appellant only) : NA
 Senior citizen > 65 years SC/ST Woman/child Disabled
 Legal Aid case In custody
11. Vehicle Number (in case of Motor Accident Claim matters) : NA

Jose Abraham
 Advocate On Record
 Registration No. 2066
 Email: advocatejose@gmail.com
 Ph: 9891417346

Place: New Delhi
 Date: 12/05/2020

RECORD OF PROCEEDINGS

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SYNOPSIS AND LIST OF DATES

The present Writ Petition under Article 32 of the Constitution is filed by the Petitioners herein who are beneficiaries of general amnesty granted by the State of Kuwait to all those who do not have valid residency permits in the country. However, due to the current lockdown which is in place and international travel restrictions due to outbreak of pandemic, COVID19, the Petitioners and similarly placed expats who are beneficiaries of the General Amnesty granted by State of Kuwait are unable to return to India and are languishing in detention camps in the State of Kuwait. The present petition is filed by the Petitioners herein seeking a direction from this Hon'ble to the Respondents to make appropriate arrangements for repatriation of the Petitioners and similarly placed Indian citizens who have been granted amnesty by the State of Kuwait.

It is humbly submitted that the detention camps in which the Petitioners and around 3000

C

similarly placed Indian migrant workers are lodged presently are overcrowded lacking basic amenities including medical facilities in case of emergency. It is also worrying fact is that due to space crunch in such camps, social distancing is impossible and the petitioners and similarly placed Indian citizens are vulnerable to Covid-19 infection.

This trend is dangerous for Petitioners and similarly placed Indian citizens living in detention camps, which are notoriously overcrowded, and lack in adequate water and sanitation meaning that workers are inevitably less able to protect themselves from the virus. Workers' proximity to one another in cramped camps also does not allow for any type of social distancing. A typical detention camp is home to hundreds of thousands of men, most of whom live in cramped dormitories, often packed eight or 10 to a room, making it extremely difficult to stop the transmission of the virus. Communal kitchens

D

and toilets shared by scores of men are often unsanitary and caked in grime.

It is humbly submitted that the State of Kuwait granted general amnesty to Petitioners and similarly placed Migrant Workers due to the difficulties being faced by Kuwait on account of the COVID-19 outbreak. The migrants workers were initially given time till 30.04.2020 in order to make arrangements for leaving Kuwait, failing which they would be subjected to imprisonment. However, even after completing technicalities, the distressed migrant workers are unable to return to India solely because of the stringent travel restrictions imposed by the Respondents herein. The said restrictions will ultimately lead to imprisonment of thousands of Indian emigrant workers, thereby grossly violating their basic Human Rights, which ought to be protected by the Respondents herein.

The absence of measures to secure the well-being of these Indian citizens will prove to be fatal.

E

So, it is humbly submitted that the Petitioners herein and other similarly placed Indian citizens who are beneficiaries of amnesty granted by the State of Kuwait are repatriated at the earliest.

It is also pertinent to mentioned that the State of Kuwait has offered to send back the Petitioners along with other similarly placed people to India free of cost and by its own civil airlines.

The Petitioners have sent their representation to various officials including the External Affairs Minister and other officials at Indian Embassy in Kuwait. But no action has been taken to repatriate them back to India.

Hence the present Petition.

LIST OF DATES AND EVENTS

31.12.2019	China reported a cluster of cases of pneumonia in Wuhan, Hubei Province. A novel coronavirus was eventually identified.
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11.03.2020	<p>The World Health Organization (WHO) considering the alarming levels of spread and severity, and by the alarming levels of inaction declared COVID-19.</p>
19.03.2020	<p>Additional Travel Advisory for Novel Coronavirus Disease (COVID-19) was issued by the Government of India, whereby it was directed that no scheduled international commercial passenger aircraft shall take off from any foreign airport for any airport in India, after 0001 hrs GMT of March 22, 2020 (*i.e. 0531 hrs Indian Standard Time (IST) of March 22, 2020) till 0001 hrs GMT of March 29, 2020.</p> <p>It was also directed therein that no incoming scheduled</p>

	<p>international commercial passenger aircraft shall be allowed to disembark its passengers *on Indian soil* (Foreigner or Indian) after 2001 hrs GMT of March 22, 2020 (*i.e. 0131hrs IST of March 23, 2020).</p>
24.03.2020	<p>The National Disaster Management Authority (NDMA), in exercise of the powers under section 6(2) (i) of the Disaster Management Act, 2005, issued an Order dated 24.03.2020, directing the Ministries/ Departments of Government of India, and the State/Union Territory Governments and State/ Union Territory Authorities to take effective measures to prevent the spread of COVID-19 in the country.</p>

26.03.2020	The Government of India extended the closure of Indian Airports for all scheduled international commercial passenger services till 1830 hrs. GMT of April 14, 2020.
30.04.2020	The State of Kuwait granted general amnesty to Petitioners and similarly placed Migrant Workers due to the difficulties being faced by Kuwait on account of the COVID-19 outbreak. The migrants workers were initially given time till 30.04.2020 in order to make arrangements for leaving Kuwait, failing which they would be subjected to imprisonment. However, even after completing technicalities, the distressed migrant workers are unable to return to India solely because of

	<p>the stringent travel restrictions imposed by the Respondents herein.</p> <p>The said restrictions will ultimately lead to imprisonment of thousands of Indian emigrant workers, thereby grossly violating their basic Human Rights, which ought to be protected by the Respondents herein.</p>
12.05.2020	The present Writ Petition is filed.

IN THE SUPREME COURT OF INDIA

CIVIL ORIGINAL JURISDICTION

(PUBLIC INTEREST LITIGATION PETITION)

CIVIL WRIT PETITION No. OF 2020

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

BETWEEN:

1. Geetha P.K.

D/o. Kuttan

Panthrandilchira, Valady,

Kumarankari P.O.,

Alappuzha- 686103

Kerala

Passport No. K0379248

.....Petitioner No. 1

2. Shainy Xavier

D/o. Xavier

Kalarickal House, Memury

P.O., Manjoor,

Kottayam- 686611

Kerala

Passport No. M2609059

.....Petitioner No. 2

3. Sahil Hussain

S/o. Mohammed Rafiq

Mohalla Lalpurra

Dungarpur- 314001

Rajasthan

Passport No. X0581712

.....Petitioner No. 3

4. Harpreet Singh C.

S/o. Mohinder Singh

VPO Buttar,

Patti Bhullar,

Monga- 142040

Punjab

Passport No. X0580545

.....Petitioner No. 4

Versus

1. Union of India

Through its Secretary,

Ministry of External

Affairs,

South Block, Raisina Hill,

New Delhi- 110011

.....Respondent No. 1

2. Ministry of Civil Aviation

Through its Secretary,

Rajiv Gandhi Bhawan,

Block B, Safdarjung Airport

Area, New Delhi-110003

.....Respondent No. 2

3. Ministry of Home Affairs

Through its Secretary

Ministry of Home Affairs,

North Block, Raisina Hill,

New Delhi- 110011

.....Respondent No. 3

**PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF
INDIA FOR ISSUANCE OF A WRIT IN THE NATURE OF
MANDAMUS TO DIRECT THE RESPONDENTS TO MAKE
APPROPRIATE ARRANGEMENT TO REPATRIATE THE
PETITIONERS AND OTHER INDIAN MIGRANTS WHO ARE
GRANTED AMNESTY BY THE STATE OF KUWAIT AND OTHER
ALLIED RELIEVES.**

To

The Hon'ble Chief Justice of India

And his Companion Justices of the

Hon'ble Supreme Court of India.

The humble Petition of the

Petitioners, above named

MOST RESPECTFULLY SHOWETH:

1. This Petition in the nature of Public Interest Litigation under Article 32 of the Constitution is being filed by the Petitioners herein seeking a the following directions from this Hon'ble to the Respondents:

- i. To make appropriate arrangement to repatriate the Petitioners and other Indian migrants who are granted amnesty by the State of Kuwait and are living in vulnerable condition in detention camps and/or,

- ii. Issue a writ in the nature of Mandamus or any other appropriate Writ, Order or Direction to Direct Respondents herein to facilitate flights offered by the State of Kuwait to land in Indian airports and receive all the repatriated amnesty beneficiaries and/or,
 - iii. To direct the Respondents to take appropriate steps to ensure adequate food, medicines, quarantine and emergency service facilities are made available to such Indians living in detention camps.
2. The Petitioners herein are are beneficiaries of general amnesty granted by the State of Kuwait to all those who do not have valid residency permits in the country. However, due to the current lockdown which is in place and international travel restrictions due to outbreak of pandemic, COVID19, the

Petitioners and similarly placed expats who are beneficiaries of the General Amnesty granted by State of Kuwait are unable to return to India and are languishing in detention camps in the State of Kuwait.

3. That the Petitioners have not filed any other Petition on the same subject matter or seeking similar reliefs either in this Hon'ble Court any High Courts except this present Petition.
4. That the Petitioner herein has moved the concerned government authority for reliefs sought herein, as such, there is no result thereof.
5. The Respondent No. 1 is the Union of India, represented by the Ministry of External Affairs, which is the appropriate ministry responsible for the conduct of foreign relations of India.
6. The Respondent No. 2 is the Ministry of Civil Aviation, which is the nodal Ministry

responsible for the formulation of national policies and programmes for development and regulation of Civil Aviation and for devising and implementing schemes for the orderly growth and expansion of civil air transport.

7. The Respondent No. 3 is the Ministry of Home Affairs, Union of India which is the appropriate Ministry responsible for the for the maintenance of internal security and domestic policy.

FACTS

8. On 31.12.2019, China reported a cluster of cases of pneumonia in Wuhan, Hubei Province. A novel coronavirus was eventually identified.
9. On 11.03.2020, the World Health Organization (WHO) considering the alarming levels of spread and severity, and by the alarming levels of inaction declared COVID-19.

10. That on 19.03.2020, Additional Travel Advisory for Novel Coronavirus Disease (COVID-19) was issued by the Government of India, whereby it was directed that no scheduled international commercial passenger aircraft shall take off from any foreign airport for any airport in India, after 0001 hrs GMT of March 22, 2020 (*i.e. 0531 hrs Indian Standard Time (IST) of March 22, 2020) till 0001 hrs GMT of March 29, 2020.

It was also directed therein that no incoming scheduled international commercial passenger aircraft shall be allowed to disembark its passengers *on Indian soil* (Foreigner or Indian) after 2001 hrs GMT of March 22, 2020 (*i.e. 0131hrs IST of March 23, 2020).

11. On 24.03.2020, the National Disaster Management Authority (NDMA), in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, issued an

Order dated 24.03.2020, directing the Ministries/ Departments of Government of India, and the State/Union Territory Governments and State/ Union Territory Authorities to take effective measures to prevent the spread of COVID-19 in the country.

12. On 26.03.2020, the Government of India extended the closure of Indian Airports for all scheduled international commercial passenger services till 1830 hrs. GMT of April 14, 2020.
13. It is humbly submitted that the State of Kuwait granted general amnesty to Petitioners and similarly placed Migrant Workers due to the difficulties being faced by Kuwait on account of the COVID-19 outbreak. The migrants workers were initially given time till 30.04.2020 in order to make arrangements for leaving Kuwait, failing which they would be subjected to

imprisonment. However, even after completing technicalities, the distressed migrant workers are unable to return to India solely because of the stringent travel restrictions imposed by the Respondents herein. The said restrictions will ultimately lead to imprisonment of thousands of Indian emigrant workers, thereby grossly violating their basic Human Rights, which ought to be protected by the Respondents herein. A true copy of the news article dt. 17.04.2020 titled "*Kuwait processing applications from Indians under amnesty scheme: MEA*" in the Economic Times is marked as **ANNEXURE P-1** and annexed herewith at Page No. **21**. A true copy of the news article dt. 01.05.2020 titled "*Kuwait offers to evacuate 45,000 Indians who benefited from visa amnesty scheme*" published in the Hindustan Times is marked as **ANNEXURE P-2** and annexed herewith at Page Nos. **22** to **24**.

14. The Petitioner has no other equally efficacious remedy except to approach this Hon'ble Court by way of present Writ Petition. All annexures annexed to the Writ Petition are true copies of their respective originals.

15. Thus being aggrieved, the Petitioners with leave of this Hon'ble Court are filing the present writ petition under Article 32 of the Constitution of India on inter-alia the following grounds:

GROUND

A. BECAUSE the detention camps in which the Petitioners and around 3000 similarly placed Indian migrant workers are lodged presently are overcrowded lacking basic amenities including medical facilities in case of emergency. It is also worrying fact is that due to space crunch in such camps, social distancing is impossible and the petitioners and similarly placed Indian citizens are vulnerable to Covid-19 infection.

B.BECAUSE Petitioners and similarly placed Indian citizens living in detention camps, which are notoriously overcrowded, and lack in adequate water and sanitation meaning that workers are inevitably less able to protect themselves from the virus. Workers' proximity to one another in cramped camps also does not allow for any type of social distancing. A typical detention camp is home to hundreds of thousands of men, most of whom live in cramped dormitories, often packed eight or 10 to a room, making it extremely difficult to stop the transmission of the virus. Communal kitchens and toilets shared by scores of men are often unsanitary and caked in grime.

C.BECAUSE the State of Kuwait granted general amnesty to Petitioners and similarly placed Migrant Workers due to the difficulties being faced by Kuwait on account of the COVID-19 outbreak. The migrants workers were initially given time till 30.04.2020 in order to make

arrangements for leaving Kuwait, failing which they would be subjected to imprisonment. However, even after completing technicalities, the distressed migrant workers are unable to return to India solely because of the stringent travel restrictions imposed by the Respondents herein. The said restrictions will ultimately lead to imprisonment of thousands of Indian emigrant workers, thereby grossly violating their basic Human Rights, which ought to be protected by the Respondents herein.

D. BECAUSE this Hon'ble Court in the case of *In Francis Coralie Mullin v Union Territory of Delhi (1981) 1SCC608* held as under:

"6. *The fundamental Right to life which is the most precious human right and which forms the ark of all other rights must therefore be interpreted in a broad and expansive spirit so as to invest it with significance and validity which may endure for years to come and enhance*

the dignity of the individual and the worth of the human person..,

7. The right to life enshrined in Article 21 cannot be restricted to mere animal existence. It means something much more than just physical survival..... Every limb or faculty through which life is enjoyed is thus protected by Article 21 and a fortiori, this would include the faculties of thinking and feeling. Now deprivation which is inhibited by Article may be total or partially neither any limb or faculty can be totally destroyed nor can it be partially damaged. Moreover it is every kind of deprivation that is hit by Article 21, whether such deprivation be permanent or temporary and, furthermore, deprivation is not an act which is complete once and for all: it is a continuing act and so long as it lasts, it must be in accordance with procedure established by law. Therefore any act which damages or injures or interferes

with the use of any limb or faculty of a person either permanently or even temporarily, would be within the inhibition of Article 21.

8.We think that the right to life includes the right to live with human dignity and all that goes along with it, namely, the bare necessities of life such as adequate nutrition, clothing and shelter and facilities for reading, writing and expressing one-self in diverse forms, freely moving about and mixing and commingling with fellow human beings. Of course, the magnitude and content of the components of this right would depend upon the extent of the economic development of the country, but it must, in any view of the matter, include the right to the basic necessities of life and also the right to carry on such functions and activities as constitute the bare minimum expression of the human-self. Every act which offends against or impairs human dignity would constitute deprivation

protanto of this right to live and it would have to be in accordance with reasonable, fair and just procedure established by law which stands the test of other fundamental rights"

E.BECAUSE the Migrant workers are very much citizens of India and the Respondents are under constitutional obligation to protect their interest in this extraordinary time which has threatened the very existence of the human race. In *M. Nagraj v. Union of India*, (2006)8SCC212, a Constitution Bench of this Hon'ble Court affirmed the inalienability of human dignity to all humans, its axiomatic importance to all human life, and the responsibilities of the State to facilitate it:

"26.The rights, liberties and freedoms of the individual are not only to be protected against the State, they should be facilitated by it... It is the duty of the State not only to protect the human dignity but to

facilitate it by taking positive steps in that direction. No exact definition of human dignity exists. It refers to the intrinsic value of every human being, which is to be respected. It cannot be taken away. It cannot give. It simply is. Every human being has dignity by virtue of his existence..."

PRAYER

In view of the facts and circumstances of the case, it is most respectfully prayed that this Hon'ble Court may be pleased to:

- i) Issue a Writ in the nature of Mandamus directing the Respondents to make appropriate arrangement to repatriate the Petitioners and other Indian migrants who are granted amnesty by the State of Kuwait and are living in vulnerable condition in detention camps and/or,
- ii) Issue a writ in the nature of Mandamus Directing the Respondents herein to

facilitate flights offered by the State of Kuwait to land in Indian airports and receive all the repatriated amnesty beneficiaries and/or,

iii) To direct the Respondents to take appropriate steps to ensure adequate food, medicines, quarantine and emergency service facilities are made available to such Indians living in detention camps.

iv) Pass any other suitable order/s as this Hon'ble Court may deem fit and necessary in light of the facts and circumstances of the case and in the interest of justice.

Filed by:

(Jose Abraham)

Advocate for the Petitioners

Place: New Delhi

Dated: 12.05.2020

Benchmarks >

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9,141.90 -97.30



NSE Gainer-Large Cap >

Indian Railway Cater...

1,368.70 65.15



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Market Watch

Kuwait processing applications from Indians under amnesty scheme: MEA

BY PTI | UPDATED: APR 17, 2020, 04.13 PM IST

Post a Comment

NEW DELHI: Kuwait has started processing applications from Indian workers under the amnesty scheme declared by its government in view of difficulties caused by the coronavirus outbreak, Minister of State for External Affairs V Muraleedharan said on Friday. Muraleedharan said over 3,000 Indians working in Kuwait submitted their applications under the scheme on Thursday.

"Kuwaiti authorities have started processing applications from Indian workers under amnesty scheme declared by their government and over 3,000 Indian workers submitted applications yesterday. MEA has already waived off the Emergency Certificate fee," he said in a tweet.

On Thursday, Muraleedharan said that the External Affairs Ministry has approved waiver of fee for Emergency Certificates to Indian nationals covered under the amnesty declared by the Kuwait government.

Kuwait has announced an amnesty till April 30 for those who do not have valid residency permits in the country. The initiative allows such people to leave the country without paying any fines.



Big Change:
The end of Five-Year Plans: All you need to know

Kuwait has recorded 1,405 positive cases and three deaths due to coronavirus.

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Kuwait offers to evacuate 45,000 Indians who benefited from visa amnesty scheme

Kuwaiti ambassador Jassem Al-Najem highlighted his government's efforts to evacuate "all illegal workers of different nationalities, including Indian nationals, who were granted general amnesty", according to a statement.

Updated: May 01, 2020 21:45 IST

Rezaul H Laskar

Hindustan Times, New Delhi

Police and civil aviation personnel wearing protective face masks work at the Kuwait Airport as the repatriation process of Kuwait citizens continues, following the outbreak of the coronavirus disease (COVID-19), in Kuwait City.(REUTERS)

Kuwait on Friday offered to evacuate thousands of illegal Indian workers who benefited from a general amnesty, even as people familiar with developments said the two sides were in touch to resolve the issue.

Kuwaiti ambassador Jassem Al-Najem highlighted his government's efforts to evacuate "all illegal workers of different nationalities, including Indian nationals, who were granted general amnesty", according to a statement.

The Kuwaiti government has offered to send back the workers to their countries "free of cost and by its own civil airlines", Al-Najem said. "Kuwait is looking forward to work with the Indian government to implement its massive evacuation plan to bring back the Indians who are willing to come back voluntarily to India after the complete lockdown ends on May 3...", he added.

The statement was issued hours before the Indian government announced a two-week extension of the nationwide Covid-19 lockdown alongside the phased easing of restrictions in some areas.

Though the Kuwaiti statement didn't give the number of Indians who benefited from the general amnesty, people familiar with developments in both countries said almost 45,000 Indian workers had been covered by the scheme.

Amid the economic downturn caused by the Covid-19 pandemic, the Kuwaiti side is keen on the speedy evacuation of the illegal workers from all countries.

“The Indian embassy is in touch with the Kuwaiti authorities to explore the best possible mechanism to facilitate the return of Indians from Kuwait,” one of the people cited above said on condition of anonymity.

There was no official word on the development from the Indian side.

Kuwait had recently announced an amnesty till April 30 for illegal migrants and workers whose visas expired after the imposition of Covid-19-related travel restrictions. Migrants who were undocumented or overstayed their visas will be allowed to leave Kuwait without paying fines.

Al-Najem also thanked the Indian government for facilitating the evacuation of Kuwaiti nationals stranded in the country on Kuwait Airways flights last week. He also thanked the Indian government for deploying a medical rapid response team to Kuwait for two weeks and providing two tonnes of medical equipment.

“The ambassador highly appreciated the Indian government’s gestures to continue supply of medicine, including paracetamol tablets and foods to Kuwait,” the statement said.

Indian and Kuwaiti authorities had to resort to damage control this week after a Cabinet note of the Gulf Cooperation Council (GCC) member state that expressed concern about “targeting of Indian Muslims” was leaked on social media.

Al-Najem reiterated a statement he had issued earlier this week that both countries shared the foreign policy principle of “non-interference in other countries’ affairs”.

Indians constitute the largest group of expatriates in Kuwait, with an estimated population of 1 million and their annual remittances are worth about \$4.8 billion. India is also among Kuwait’s top 10 trading partners, with bilateral trade worth \$6.2 billion during 2015-16.

Prime Minister Narendra Modi and his Kuwaiti counterpart Sheikh Khaled Al-Hamad Al-Sabah and external affairs minister S Jaishankar and his counterpart Ahmed Nasser Al-Mohammed Al-Sabah have spoken on phone recently regarding cooperation to control the Covid-19 pandemic.