

Public Interest Litigation filed in the Punjab & Haryana High Court Against Khap Panchayats

A public Interest litigation is filed by Lawyers For Human Rights International in the Punjab and Haryana High Court against the running of parallel courts by caste based Khap Panchayats of Haryana State, who are interfering into the personal lives of the people of Haryana State. the recent incident in which Mr. Ved Pal of Village- Matour in Kaithal District in Haryana State was lynched by the residents of village-Singhwal, where his wife Sonia was living has shook the conscious of right thinking people.

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIARH

Civil Writ Petition No._____/2009

(Public Interest Litigation)

Lawyers for Human Rights International (Regd.) through Tejinder Singh Sudan Advocate,

President, Chandigarh Unit, resident of H.No.1727, Phase-5, Sector 59, S.A.S.Nagar, Mohali.

.... Petitioner

Versus

1. State of Haryana through the Principal Secretary, Department of Home, Civil Secretariat,

Chandigarh.

2. Director General of Police, Haryana, Panchkula.
3. Deputy Commissioner, Jind.
4. Superintendent of Police, Jind.
5. Banawala Khap Panchayat to be served through Deputy Commissioner, Jind.

.... Respondents

Petition under Articles 226/227 of the Constitution of India for issuance of a

writ of Mandamus or any other writ, order or directions in the below terms:-

- i) **that** the decisions of the Khap Panchayats of Haryana, which are against the spirit of Constitution of India be declared to be illegal;
- ii) **action** should be initiated against such Khap Panchayats which are holding Courts/ meetings and taking decisions against the law of the land which are an affront and challenge to the rule of law and the police be directed to book the heads of the Khap panchayat for instigating violence which led to the death of Ved pal;
- iii) **that** the case of the lynching of Ved Pal Mor resident of village Mataur of Kaithal District be ordered to be investigated by Special Investigation Team to be headed by a Senior IPS Officer and the investigation be supervised by this Hon'ble Court;
- iv) **that** after investigation the accused be tried by a Special Court on day to day basis and speedy justice should be delivered to instill confidence of the people in the rule of law;
- v) **this** Hon'ble Court may also direct the respondent No.2 and 4 to initiate departmental action against the police officials who accompanied the Warrant Officer, but failed to provide security to the deceased or to the Warrant Officer, leading to the death of Ved Pal Mor;

vi) **since** the Warrant Officer was carrying the warrants for search of the detenu namely Sonia, he was representing the Hon'ble Court, so treatment given to the Warrant officer by members of Khap Panchayat, falling within the definition of Criminal Contempt, as the same amounts to interference in the Administration of Justice, proceedings under Contempt of Courts Act be also initiated;

vii) **this** Hon'ble Court may also consider the case of grant of compensation to the family of Ved Pal Mor for his loss of life, as the State failed to protect his life and liberty as enshrined under Article 21 of Constitution of India.

Respectfully showeth:-

1. That the petitioner organization is comprised of Lawyers who are practicing in this Hon'ble court as well as the Districts Courts of Punjab, Haryana and Chandigarh. Though the organization has membership throughout the world, however the units of Punjab, Haryana and Chandigarh are actively involved in upholding of Human Rights and rule of law through Public Interest Litigations and by providing free legal aid to the persons who are unable to afford litigation. The organization also trains and disseminates Human Rights knowledge through seminars and workshops. The organization does not accept any grants nationally or inter-nationally and the members of the organization make expenditure from their own earnings. The petitioner organization is also part of the International Campaign against Death Penalty and ratification of the treaty for formation of International Criminal Court at Hague. So the petitioner organization is competent to move this Hon'ble Court by way of the **Public Interest Litigation** in the present matter of public importance.
2. That the members of the petitioner organization were taken aback by reading today's newspaper in which it appeared as headlines the news item which disclosed the killing of Ved Pal Mor a 22 year old resident of village Matour falling in Kaithal District of Haryana. As is evident from the news item Ved Pal got married to Sonia who was resident of village Singhwal falling in Jind District. As the news item disclosed Ved Pal and Sonia got married in the same Gotra and the Khap Panchayat of the said Gotra (Caste) had given a decision against them declaring their marriage to be against the rules laid down by the Khap Panchayat. On the date of his death i.e. 22.7.2009 the deceased Ved Pal who was

accompanied with the Warrant Officer appointed by this Hon'ble court in a habeas corpus petition and also under protection of around 15 policemen duly deployed on the orders of the habeas corpus bench, when went to village Singhwal to recover Sonia the wife of Ved Pal who was being allegedly illegally detained, the warrant Officer and Ved Pal had to face onslaught of the Khap Panchayat and the villagers who lynched the deceased and it is also reported in one of the news paper that the Warrant Officer was injured and all the police men accompanying the Warrant officer ran away from the spot. The news items which appeared in the Indian Express, Hindustan Times and The Tribune dated 24.7.2009 and 25.7.2009 are self speaking and are being appended herewith as **Annexures P-1** to **P-4**.

3. That the manner in which Khap Panchayats have been behaving in the past years, interfering into the personal lives of individuals is against the spirit of the Constitution of India and is also anti thesis to the concept of the Indian union. The framers of the Constitution in its preamble clearly depicted, what kind of nation, was conceptualized by the founders of the Indian nation and the preamble discloses the intention, which reads as under:-

"The Constitution of India

We, the people of India, having solemnly resolved to constitute India into a **sovereign socialist secular democratic republic** and to secure to all its citizens;

Justice, social economic and political;

Liberty of thought, expression, belief, faith and worship;

Equality of status and of opportunity;

and to promote among them all

Fraternity assuring the dignity of the individual and the unity and integrity of the nation.

In our Constituent Assembly this twenty-sixth day of November, 1949, do hereby adopt, enact and give to ourselves this Constitution.”

4. That Article 14 and 15 of the Constitution of India gives a right to every citizen, equality before law and prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. The fundamental rights as enshrined under Article 19 and Article 21 are further the pillars of the freedoms enjoyed by the citizens of India, of course with reasonable restrictions. The right to freedom of religion has been further defined under Article 25 of the Constitution of India.

5. That the Khap Panchayats through their dictates have been interfering into the personal lives of the citizens of India and have been holding parallel judicial systems in the form of Khap Panchayats, giving dictates which are against the spirit of the Constitution of India and which undermine the authority of rule of law. Sometimes they intervene and declare the marriage of the members of their caste with alleged lower caste to be against their rules and other times they declare marriage within their caste (Gotras) to be against their rules. However such dictates are against the spirit of the Constitution of India and no marriage can be illegal or null and void until and unless it is against the provisions of the Hindu Marriage Act or any other law relating to marriages. However the Khap Panchayats have their own laws, which are in contradiction with the established rule of law. Such decisions have been earlier been also subject to challenge in this Hon'ble Court and one of such decisions as reported in the news paper “The Telegraph” dated 16.10.2004 reports a decision taken by the Hon'ble First Bench of this Hon'ble Court in a petition filed by a Civil Liberty Organization by the name of “People Union of Civil Liberties”, a well respected organization of National level, in which certain cases were dealt and this Hon'ble Court had held the decisions of such Khap Panchayat to be illegal. The said news item dated 16.10.2004 is being appended herewith as **Annexure P-5**. On surfing on the internet the petitioner organization also came across a news item which is available on the website called 4jat.com which gives the details of the cases in which the Khap Panchayats played their negative role to declare such marriages to be illegal. A copy of the said news reported in the website is being appended herewith as **Annexure P-6**.

Two latest news items of similar cases which have been reported in The Tribune dated 23.7.2009 and 25.7.2009 are being appended herewith as **Annexure P-7** and **P-8**. These news items disclose consistent affront and challenge to the law of the land by the Khap Panchayats.

6. That the manner in which the Khap Panchayats have overlooked and turned a deaf ear to the judgments of this Hon'ble Courts from time to time, show their adamant attitude to have a parallel judicial system, which is a challenge to the judicial system established under the law laid down through various statutes, within the spirit of the Constitution of India.

7. That it is also very alarming that the State of Haryana is riddled with the castes systems to such an extent that the life of a person on day to day basis is being interfered with the Rules laid down by the Khap Panchayats which are in contradiction with the established rule of law. It is further serious to note that the administration is acting like a mute spectator, if not party to such decisions of the Khap Panchayat and by turning a blind eye towards working of the Khap Panchayats they are not taking any steps to ensure that the Khap Panchayats stop taking such decisions which are in contradiction with the rule of law and they stop interfering into the personal lives of the individuals, who enjoy certain rights under the Constitution of India.

8. That the present incident shows the height of the intolerance to the rule of law by the Khap Panchayats and since this Hon'ble Court orders have from time to time being thrown to wind by the Khap Panchayats, the Khap Panchayats have thrown an open challenge to the Judicial System and Rule of Law which is established under the Constitution of India. So there has to be an end to the breaking of Rule of Law and to the mind of the petitioner the present case has surpassed all the boundaries of challenge to the Rule of Law and before the people lose faith in the Rule of Law, remedial steps be taken by the State on the directions of this Hon'ble Court.

9. That the manner in which an innocent life has been lost, even in presence of 15 police officials and the Warrant Officer also need to be taken in a very serious manner and fair investigation and speedy trial besides compensation to the deceased's family are some of the

actions which need to be taken to ensure the protection of life and liberty as enshrined under Article 21 of Constitution of India.

10. That the manner in which the Warrant Officer has been dealt by the Khap Panchayats and the villagers clearly fall within the definition of Criminal Contempt, as the Warrant Officer was armed with the warrants of this Hon'ble Court to search the detenu from the village and it amounted to interference in Administration of Justice and undermining the judicial authority of the Court and falls within the definition of Section 3(i)(c) of Contempt of Courts Act.

11. That the main law points involved in the writ petition are:-

i) As to whether the actions of the Khap Panchayats are in contradiction and violation of the spirit of the Constitution of India and specially Article 14, 15, 19 and 21 of Constitution of India?

ii) As to whether the State of Haryana should be held responsible for the breakdown of law and order and rule of law, by permitting such lawless activities of the Khap panchayats?

iii) As to whether the District Administration and the Police Administration failed to perform its duties under the Constitution of India, in order to protect the life and liberty of the victim and his family and also in other cases of interference in the personal lives of the citizens by the Khap Panchayats of Haryana?

iv) As to whether the family of Ved Pal (deceased) needs to be granted compensation in the light of violation of the right to life and liberty of Ved Pal as enshrined under Article 21 of the Constitution of India?

12. That there is no other remedy either by appeal or revision is available with the petitioner except to approach this Hon'ble Court by way of filing the present writ petition.

13. That no such or similar petition has earlier been filed by the petitioner in this Hon'ble Court or in the Hon'ble Supreme Court of India.

14. That the documents attached with the writ petition are true copies of the originals as required under Rule 22 of the Writ Jurisdiction Rules.

In the light of the above given circumstances of the case, it is, therefore, respectfully prayed that this Hon'ble Court may be pleased to issue a writ of Mandamus or any other writ order or directions in the below terms:-

i) that the decisions of the Khap Panchayats of Haryana, which are against the spirit of Constitution of India be declared to be illegal;

ii) **action** should be initiated against such Khap Panchayats which are holding Courts/ meetings and taking decisions against the law of the land which are an affront and challenge to the rule of law and the police be directed to book the heads of the Khap panchayat for instigating violence which led to the death of Ved pal;

iii) that the case of the lynching of Ved Pal Mor resident of village Mataur of Kaithal District be ordered to be investigated by Special Investigation Team to be headed by a Senior IPS Officer and the investigation be supervised by this Hon'ble Court;

iv) that after investigation the accused be tried by a Special Court on day to day basis and speedy justice should be delivered to instill confidence of the people in the rule of law;

v) this Hon'ble Court may also direct the respondent No.2 and 4 to initiate departmental action against the police officials who accompanied the Warrant Officer, but failed to provide security to the deceased or to the Warrant Officer, leading to the death of Ved Pal Mor;

vi) since the Warrant Officer was carrying the warrants for search of the detenu namely Sonia, he was representing the Hon'ble Court, so beating of the Warrant officer by members of Khap Panchayat, falling within the definition of Criminal Contempt, as the same amounts to interference in the Administration of Justice, proceedings under Contempt of Courts Act be also initiated;

vii) this Hon'ble Court may also consider the case of grant of compensation to the family of Ved Pal Mor for his loss of life, as the State failed to protect his life and liberty as enshrined under Article 21 of Constitution of India.

viii) with a further prayer that this Hon'ble Court may kindly pass any other appropriate writ, order or direction which deem fit and proper in the facts and circumstances of the case;

ix) advance notice of the writ petition to the respondents may kindly be dispensed with;

x) filing of the certified/typed copies of the Annexures P-1 to P-8 may also be dispensed with,

xi) with a further permission to place on record photocopies of the Annexures P-1 to P-4 and P-7 and P-8 as the same are quite legible for readily purpose.

xii) the writ petition may be accepted as prayed for;

CHANDIGARH

DATED 25.07.2009

(PETITIONER)

THROUGH

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(NAVKIRAN SINGH) (RUBINA N.SINGH)(SHALLIE SAINI)

ADVOCATES

DATED: 25.07.2009

COUNSEL FOR THE PETITIONER

