

IN THE HIGH COURT OF DELHI AT NEW DELHI

BAIL APPLICATION NO. OF 2020

In the Matter of:

Dr. ZAFARUL-ISLAM KHAN

... PETITIONER

v.

GOVERNMENT OF NCT OF DELHI

THROUGH P.S. SPECIAL CELL (SB), LODI COLONY,

... RESPONDENT

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PETITIONER

Dr. ZAFARUL-ISLAM

KHAN

Through



**Vrinda Grover, Ratna Appender
and Soutik Banerjee
Advocates
N- 14 A, Saket,
New Delhi - 110017
9810806181
vrindagrover@gmail.com**

New Delhi

Dated: 08.05.2020

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To,
The Deputy Registrar
High Court of Delhi
New Delhi

Sir,

URGENT APPLICATION

Will you kindly treat the accompanying Petition under Section 438 r/w Section 482 of the Code of Criminal Procedure, 1973, as an urgent one in accordance with the High Court rules and orders.

The grounds of urgency are:

“The Petitioner is a public servant and currently the Chairperson, Delhi Minorities Commission, as well as a senior citizen aged 72 years, who suffers from heart disease and hypertension and is highly susceptible to COVID-19 infection, which can have fatal consequences for a person of his age and health condition. In these circumstances there is an urgent need to grant him protection from arrest and coercive action in a frivolous and untenable case, in order to safeguard his liberty as the failure to do so will have irreversible consequences on his right to life.”

Yours Faithfully,

PETITIONER

Dr. ZAFARUL-ISLAM KHAN

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**Vrinda Grover, Ratna Appender
and Soutik Banerjee
Advocates
N- 14 A, Saket,
New Delhi - 110017
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vrindagrover@gmail.com**

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**Vrinda Grover, Ratna Appender
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9810806181
vrindagrover@gmail.com**

**New Delhi
Dated: 08.05.2020**

28 April 2020	Petitioner posted a message on social media in his capacity as Chairperson, Delhi Minorities Commission, appreciating Kuwait's earlier statement on the condition of Muslim minorities in India. On the same day, the Petitioner's post was maliciously distorted and falsely broadcast by certain sections of the electronic media.
29 April 2020	Petitioner posted on social media responding to distortion of his earlier post by the media
30 April 2020	One Mr. Ankit Gupta tweeted a photograph of a complaint filed by him against the Petitioner.
1 May 2020	Legal notice was sent on behalf of the Petitioner to a media house for the deliberate and maliciously distorted and false broadcast.
1 May 2020	Petitioner posted on social media clarifying his earlier post of 28 April 2020.
2 May 2020	News report in Hindustan Times wherein it is reported that an F.I.R has been registered against the Petition under S.124A, 153A IPC by Special Cell of Delhi Police.
6 May 2020 6:30 P.M.	Investigating Officer of F.I.R No.120/2020 P.S. Special Cell (SB) accompanied by policemen, including from P.S. Cyber Cell Dwarka came to the Petitioner's residence and directed him to come with them to the Police Station. The Petitioner expressed his willingness to cooperate with the

	<p>investigation but expressed his inability to leave his residence, being 72 years of age, and in view of medical ailments which made him vulnerable to COVID-19 infection. Petitioner repeatedly requested the Police authorities to give him a written notice in accordance with law. However, the Police did not give any written notice. The Petitioner then made an application citing Section 160 Cr.P.C. which mandates that a person above the age of 65 years cannot be compelled to appear in the police station, and that all proceedings may be carried out in his residence. The police authorities refused to formally receive this application. While leaving around 8:00 PM, the police officials directed the Petitioner to bring his laptop and mobile to Cyber Cell, Dwarka, on 8th May, 2020. The Petitioner again requested for a written Notice to that effect, but no notice was served on the Petitioner.</p>
07.05.2020	<p>Petitioner has a real, grave and imminent apprehension of his liberty being illegally curtailed and his fundamental rights and freedoms being violated. Hence the present petition</p>

PETITIONER

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Through



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and Soutik Banerjee
Advocates
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... RESPONDENT

FIRST PETITION UNDER SECTION 438 R/W SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, 1973, BEFORE THIS HON'BLE COURT SEEKING DIRECTIONS TO THE SHO/INVESTIGATING OFFICER TO RELEASE THE PETITIONER/ACCUSED ON BAIL IN THE EVENT OF HIS ARREST IN FIR NO. 120/2020, UNDER SECTIONS 124A, 153A INDIAN PENAL CODE, REGISTERED AT POLICE STATION SPECIAL CELL (SB), LODI COLONY, AND SEEKING DIRECTIONS TO PREVENT THE ABUSE OF LEGAL PROCESS AND TO SECURE THE ENDS OF JUSTICE

Most Respectfully Submitted:

1. That the Petitioner is a law-abiding senior citizen of India and a permanent resident of New Delhi. The Petitioner is a public servant presently appointed and serving as the Chairperson of the Delhi Minorities Commission. The Petitioner is a scholar, author of repute and a senior citizen aged about 72 years.

- 2.** That by this application, the Petitioner seeks to invoke the powers vested with this Hon'ble Court under Section 438 read with Section 482 of the Code of Criminal Procedure, 1973, as he apprehends his arrest in a motivated, untenable and absolutely frivolous complaint which has been registered at Police Station Special Cell (SB), Lodi Colony, under Sections 124A/153A of the Indian Penal Code, as FIR No. 120 of 2020. A true copy of the operative portion of FIR No. 120/2020, dated 30.04.2020, registered at P.S. Special Cell (SB), is annexed herewith and marked as **Annexure A-1**.
- 3.** That in the present FIR, the crux of the allegations is that a social media post of the Petitioner, as Chairperson of the Delhi Minorities Commission, on 28.04.2020 on social media platforms, Twitter and Facebook, amounts to offences under Sections 124A and 153 A of the Indian Penal Code. A true copy of the social media post dated 28.04.2020 of the Petitioner is annexed herewith and marked as **Annexure A-2**.
- 4.** That the Petitioner submits that in order to appreciate the case in its correct perspective, it is essential to detail certain relevant facts which would clearly establish that the allegations contained in the FIR against the Petitioner are devoid of legal merit, distort facts, are frivolous and untenable. The facts and grounds demonstrate that the registration of the abovementioned FIR is a gross abuse of the process of law and also establish the innocence of the Petitioner, and the same have been enumerated as under:

 - (a)** The Petitioner has been serving as the Chairperson of the Delhi Minorities Commission since July 2017.

(b)That the Petitioner is a distinguished scholar with a Master of Arts degree in Islamic Studies obtained from the Faculty of Dar Al-Uloom, Cairo University in 1978 and a PhD degree from the University of Manchester in 1987. The Petitioner being a proficient translator-editor, has worked in foreign countries including Libya and England. The Petitioner is a senior journalist, scholar and author of over 50 books in English, Urdu and Arabic. The Petitioner was the Chief Editor of The Milli Gazette from its inception in January 2000 to December 2016. He has served as President, for three terms, of the All India Muslim Majlis-e-Mushawarat (AIMMM), the umbrella body of Indian Muslim organizations. He is also the Chairman of Charity Alliance which works among some of the most disadvantaged people. The Petitioner has attended conferences across the world and has delivered keynote addresses in many Indian and foreign universities. The Petitioner organized a number of international conferences including the International Dialogue between Islam & Oriental Religions in February 2010 at Delhi which was inaugurated by the Hon'ble Vice-President, Mr. Hamid Ansari. A true copy of the Petitioner's educational degrees is annexed herewith and marked as **Annexure A-3 (Colly)**.

(c)That given the Petitioner's qualifications and experience, he was appointed Chairperson of the Delhi Minorities Commission, in July 2017, under the Delhi Minorities Commission Act 1999, to take care of the welfare and interests of the designated minorities in Delhi. The Petitioner, as the Chairperson of the Delhi Minorities Commission, is a public servant, in terms of law.

(d)The Petitioner, in consonance with the constitutional mandate of secularism, non-discrimination and equality has always taken a strong stand against communalism and targeting of Indian Muslims on the basis of their religious identity. In a recent article, The Guardian quoted the Petitioner as having said, *Dr Zafarul-Islam Khan, chairman of the Delhi Minorities Commission, said that while Tablighi Jamaat had been short sighted in holding the convention, there were “dozens of examples of government, political parties and other religious groups who also flouted the coronavirus restrictions and gathered in large numbers”*. He added: *“But the whole focus is being directed only on Muslims. In the past few days, we have noted a new wave of attacks on Muslims across the country. There is talk of social boycott of Muslims, harassment of Muslims by Hindutva groups and Muslims are even being harassed by police in various areas.”* The article is available at:

<https://www.theguardian.com/world/2020/apr/13/coronavirus-conspiracy-theories-targeting-muslims-spread-in-india>

(e)That the Petitioner has always publicly condemned terrorism and violence in the name of Islam. Even in 2014, the Petitioner was among the first to condemn and to speak against the terrorist groups known as ISIS, ISIL and IS and also against the terrorist groups Al-Qaeda and Boko Haram. The Petitioner has consistently taken a public position against the use of violence by terrorist groups in the name of religion.

(f) That since late March 2020, India has witnessed widespread hate speech and comments and in some cases physical attacks against members of the Muslim community, blaming the Muslim community

for spreading Coronavirus. On twitter, phrases, hashtags #CoronaJihad, #CrushTablighiSpitters, #MuslimMeaningTerrorist, and #BioJihad on platforms like Facebook and Twitter were commonplace. The Time Magazine reported that, *“Since March 28, tweets with the hashtag #CoronaJihad have appeared nearly 300,000 times and potentially seen by 165 million people on Twitter, according to data shared with TIME by Equality Labs, a digital human rights group. Equality Labs activists say that many of the posts are in clear violation of Twitter’s rules on hate speech and coronavirus, but have yet to be taken down.”*

Available at:

<https://time.com/5815264/coronavirus-india-islamophobia-coronajihad/>

i. An illustrative sample of such tweets and posts are below:

Ravi Singh @RViiSingh · Apr 5
 Replying to [@Voice_For_India](#)
 They are just showing their original face.
 They say, they can use anything as weapon for their [#Jihad](#)
 They all are enemies of every human being.
 Even They can jump into well without knowing the fact in the name of [#Jihad](#)
[#JihadiVirus](#)
[#jihadi_corona_virus](#)

मधु मुकुल त्रिपाठी, Adv सर्वोच्च न्यायालय [@iMMTripathiAdv](#) · Apr 5
 Suicide Dumb-er
[#CoronaJihad](#) [#TablighiJamat](#) [#Tableeghijamaat](#) [#Seva4Society](#)
[#NIZAMMUDIN](#) [#NizamuddinMarkaz](#) [#कोरोना_जिहाद](#) [#Coronavirustruth](#)
[#jihadi_corona_virus](#) [#BanTablighiJamat](#)



Suchi Das @SuchiDas_ · Apr 2
 These are Threat to Mankind. No less than terrorists. They are fcking retard & sick mentality people. Filthy pigs [#JihadiJamat](#)
[#jihadi_corona_virus](#) [#Corona786](#)



ii. Media reports from across the country showed how Muslim vendors/vegetable sellers were being verbally abused and attacked, and being accused of spreading corona virus. In Uttar Pradesh, a group of vegetable vendors filed a complaint, *“The vendors in their complaint said they had gone to some villages to sell vegetables on April 11. Scores of people were buying from them, they allege, when a*

group of men asked the buyers not to purchase vegetables as they were Muslims. The sellers were abused, and asked to leave the village, they said.”

Available at:

<https://www.ndtv.com/india-news/coronavirus-uttar-pradesh-abused-stopped-from-selling-vegetables-allege-muslim-vendors-in-up-2210963>

In Karnataka, Muslims were attacked and accused of spreading coronavirus. It was reported,

“You people (Muslims) are the ones who are spreading this disease,” shouted a group of men while attacking two Muslim men with sticks and irons rods in Karnataka’s Bagalkot district. This was one of the several attacks on Muslims reported in Karnataka over the past one week.”

Available at:

<https://www.thequint.com/videos/news-videos/attacks-blaming-muslims-for-covid-19-reported-across-karnataka>

iii. A substantial portion of the hate speech and attacks on the Muslim community was in the form of spreading fake and fabricated news that vilifies Muslims and portrays them as spreading Coronavirus. Misinformation was spread to target Muslims as carriers and spreaders of coronavirus. Such misinformation, including that members of the Tablighi Jamaat misbehaved with doctors was refuted by the local police on more than one instance. Further, fake news that Muslims

vegetable vendors were applying corona infected saliva on vegetables, that Muslims were spitting into food to spread corona were shared widely on social media and whatsapp before being declared to be fake and fabricated.

Available at:

<https://www.news18.com/news/buzz/muslims-spitting-on-food-hiding-in-mosques-to-spread-coronavirus-beware-of-these-8-fake-news-stories-2565483.html>

(g) That in view of the reports of Islamophobia and malicious targeting of Muslims, through communally charged news reporting and political speeches, blaming Muslims for spread of coronavirus and the earlier riots in the North East district of Delhi, many Arab countries issued statements expressing concern about the status of Muslim minority persons in India. A report, in Al Jazeera states, *“In the past couple of weeks, the Organisation of Islamic Cooperation (OIC), the Kuwait government, a royal princess of the United Arab Emirates (UAE), as well as a number of Arab activists have called out Islamophobic hate speech by Indians seen to be accusing the country's Muslims of spreading the novel coronavirus. A barrage of tweets and statements from individuals and institutions in the Gulf expressing their outrage over the hateful social media posts forced the Indian government to respond, including a Twitter post by Prime Minister Narendra Modi in which he stressed that “COVID-19 does not see race or religion.”* A true copy of the Al Jazeera report dated 30.04.2020 titled “Why Arabs are speaking out against Islamophobia in India” is annexed herewith and marked as **Annexure A-4**.

- (h) That regrettably at a time when unity is required for the country to meet the challenge of COVID19, social media and other media platforms witnessed a massive increase in instances of hate speech directed against Indian Muslims, specifically blaming Indian Muslims for spreading Coronavirus.
- (i) Messages of caution and concern were issued not only within the country, but also by political leaders and prominent persons from other countries. In response to these international concerns, the caution to maintain communal harmony was reiterated by the Indian Government, including the Indian Embassies in Qatar, UAE and Oman, as well as the Foreign Minister of India.



Dr. S. Jaishankar ✓
@DrSJaishankar

A cordial conversation with FM @MBA_AIThani_ of #Qatar. Discussed our #coronavirus experiences. Thanked him for taking care of the Indian community. Such challenging times will only further strengthen our friendship.

5:13 PM · Apr 24, 2020 · Twitter for iPhone

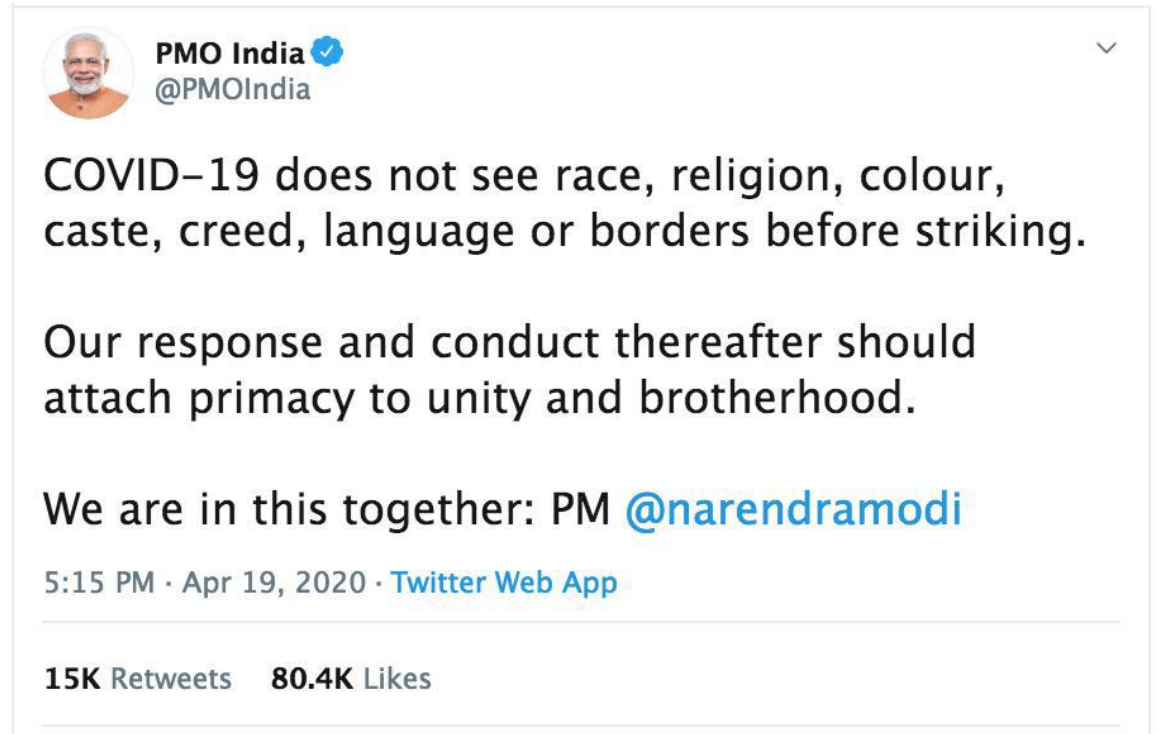
- (j) Taking note of this growing tide of hate speech targeting the Muslim community the Prime Minister too tweeted that,

“COVID-19 does not see race, religion, colour caste, creed, language or borders before striking.

Our response and conduct thereafter should attach primacy to unity and brotherhood.

We are in this together.PM@narendra modi

...”



(k) That on 28.04.2020, the Petitioner, in his capacity as Chairperson of The Delhi Minorities Commission, shared a post on social media platforms Facebook and Twitter. The Petitioner in his social media posts highlighted the targeting of Muslims by “bigots” in India and expressed his thanks to Kuwait, for expressing international concern on the issue of the Muslim minority in India. However, it is noteworthy that the Petitioner’s social media posts make it evident that while acknowledging the international community’s support, the Petitioner has emphatically stated that Indian Muslims do not seek or require external help in India. Despite offers of solidarity from foreign countries, the Petitioner has firmly taken the position of non-interference in India’s internal affairs. Moreover, it is relevant to emphasize that the social media posts of the Petitioner are addressed to “bigots”, who through their words and actions are destroying the

secular fabric, communal harmony within India and bringing disrepute to India abroad.

- (I) That the Petitioner's social media post was falsely reported, distorted and sensationalized out of context by certain sections of the media in order to embarrass the Petitioner and to tarnish the stellar work that the Petitioner has been doing as Chairman, Delhi Minorities Commission. Alarmed that his social media post was being maliciously and knowingly distorted and false meanings and motives attributed to his words, the Petitioner responded through his social media posts dated 29th April, 2020, and further on 1st May, 2020, the Petitioner elaborated on his original tweet and clarified the distortions and misrepresentations by sections of the media,

“The tweet issued by me on 28 April 2020 thanking Kuwait for taking note of the persecution of Indian Muslims, in the context of the North East district's violence, has pained some people which never was my intention.

I realise that my tweet was ill-timed and insensitive in view of our country facing a medical emergency and fighting an unseen enemy. I apologize to all whose sentiments were hurt.

Further, the limitation of a tweet, which has to be very short by its very nature, was also responsible that the whole narrative was not made out in plain language. The matter was blown out of all proportion by adding things into it which was neither my intention nor was meant. A section of media added lies into it, distorted and fabricated its content and attributed inflammatory opinion into it. I did

not say so nor intended such things as they have been attributed to my tweet.

I have already stated in my previous statement as to how I have defended India in the Arab world on crucial issues. I will continue to do so, far from complaining against my country to any other country or Arab or Muslim world. This is against our Constitution, against my own views, upbringing and against my religious belief which teaches me that 'love of homeland is part of Islam'.

I have taken serious note of a section of media which distorted my tweet and attributed to me things I never said. Appropriate legal notices have already been served on the news channel which championed in distorting my statement. If need be, further legal steps shall be taken.

I thank all my friends and well-wishers who stood by me in solidarity during this difficult time and I assure them that our struggle against bigotry and hate politics will continue within our institutions and within the framework of our Constitution which is the sole reference point of our polity.”

A true copy of the social media post dated 29.04.2020 is annexed herewith and marked as **Annexure A-5**; and a true copy of the social media post dated 01.05.2020 is annexed herewith and marked as **Annexure A-6**.

(m) Despite the Petitioner's clarifications, a communal and politically motivated misinformation campaign was orchestrated against the Petitioner to undermine the good work done by him over

the years. The Petitioner sent a legal notice in this regard to a media house on 01.05.2020. A true copy of the Legal Notice dated 01.05.2020 is annexed herewith and marked as **Annexure A-7**.

(n) That the false, inflammatory, malicious and distorted media coverage of the Petitioners' social media posts have already had the effect of inciting hatred against the Petitioner, and causing him to be held in contempt in the eyes of the public. This is evident from frivolous and malicious complaints that have been filed against the Petitioner following such media coverage. That on 02.05.2020, the Petitioner learnt from news reports that on receipt of a complaint by a resident of Delhi an FIR has been registered against the Petitioner at P.S. Special Cell (SB). True copy of the Hindustan Times report dated 02.05.2020 is annexed herewith and marked as **Annexure A-8**.

(o) That the complaints against the Petitioner have been filed with obtuse motive and malafide is evidenced by the use of social media to attract publicity to the complaints and persons who filed them. There are reports of further complaints filed against the Petitioner for his social media post dated 28.04.2020, and persons have taken to social media to declare that they have filed complaints with the police for registration of further FIRs against the Petitioner. A true copy of a tweet of a complaint filed by Mr. Ankit Gupta is annexed herewith and marked as **Annexure A-9**.

(p) That despite almost a week having lapsed since the registration of the said F.I.R, the Petitioner was not served any legal notice for interrogation. On 6th May, 2020, at about 6:30 P.M, post sunset and just as the Petitioner was settling down for Iftaar, a police team led by Inspector Parveen, the Investigating Officer from Delhi Police, Special

Cell, of the present F.I.R, along with other police personnel including from Cyber Cell, Dwarka and P.S. Shaheen Bagh, came to the Petitioner's residence and orally asked the Petitioner to accompany them to the Cyber Cell Police Station. The police did not give any written notice to the Petitioner as mandated under Section 41A Cr.P.C or Section 160 CrPC. Further, despite being informed that the Petitioner is aged at least 72 years and suffers from health ailments including hypertension, the police insisted that the Petitioner immediately accompany them to the police station. The Petitioner informed the police verbally and in writing that he was a senior citizen aged 72 years, a heart patient and suffers from hypertension, making him highly susceptible to COVID-19 infection. The Petitioner repeatedly informed the police that he was willing to cooperate with the investigation and the police can examine him at his residence. Further, the Petitioner requested the police to give him a written notice as per law. It is pertinent to note that though the police spent around 2 hours at the Petitioner's house, they did not conduct any investigation; they did not question the Petitioner or examine his laptop. Instead, while leaving, the police verbally asked the Petitioner to appear at the Cyber Cell, Dwarka, on 8th May 2020, with his laptop and mobile phone. The Petitioner repeatedly communicated to the IO that he was available and willing to cooperate with the investigation at his residence, however the police did not question him or examine his laptop or mobile phone. [A true copy of the application made by the Petitioner on 06.05.2020 is marked and annexed herein as **Annexure A-10**]

5. That in the facts and circumstances as stated above, the Petitioner apprehends his arrest in the FIR No. 120/2020 P.S. Special Cell(SB) or any new FIR that may be registered upon other complaints, and seeks the intervention of this Hon'ble Court, in exercise of its powers under Section 438 r/w Section 482 of the Code of Criminal Procedure, 1973, for grant of bail in the event of his arrest in the present case, on the following grounds:

GROUNDS

- A. That no offence has been committed by the Petitioner, and the present FIR has been registered with a *mala fide* intention to harass and intimidate the Petitioner.
- B. Because the FIR against the Petitioner is misconceived, being made on a misrepresentation of facts and an erroneous, untenable reading of the law. As such, it does not warrant the curtailment of liberty and dignity of the Petitioner, which is his guaranteed right under Articles 19 and 21 of the Constitution of India.
- C. Because the Petitioner herein is the Chairperson of The Delhi Minorities Commission, a statutory body set up under The Delhi Minorities Commission Act, 1999. As such, the actions undertaken by the Petitioner in his capacity as Chairperson of the Delhi Minorities Commission are governed by the provisions prescribed under the said Act *inter alia*.

01. The Delhi Minorities Commission Act was passed in 1999 to set up a Commission “*to provide for the establishment and functioning of a Minorities Commission to safeguard the rights*”

and interests of the Minority communities in the National Capital Territory of Delhi and for matters connected therewith or incidental there to.”

02. The functions of the Commission are provided for in Section 10 of the said Act, and it includes *inter-alia* that, “*The Commission shall serve as a Clearing House for information in respect of the Minority Communities in Delhi.*”

03. That a statutory duty is cast upon the Commission under the said Act to safeguard the rights and interests of minorities in the National Capital Territory of Delhi. In the context of the communalized targeting and communally charged news reporting against Muslims in view of the Tablighi Jamaat event held in New Delhi on March 13-14, 2020, as well as social media posts blaming Muslims for spread of coronavirus and calling for their social and economic boycott, the Commission has a statutory obligation to speak out against such communalisation and spread of disharmony in society to safeguard the rights of the Muslim minority community. In view of the same, acknowledgment of the concern for Muslim minorities from Arab countries or member nations of the United Nations promotes international solidarity and fraternity, as well as highlights the situation of Muslim minorities, and is an act squarely covered under the functions of the Commission, which serves as the source of divulging information qua minorities in New Delhi.

D. That the Petitioner as the Chairperson of the Delhi Minorities is a public servant in the eyes of the law and is afforded statutory protection by the said Act.

01. Section 13 of the Act provides that, “*The Chairperson, Members and officers authorized by the Commission to perform functions under this Act, shall be deemed to be public servants within the meaning of Section 21 of the Indian Penal Code, 1860 (45) of 1860.*”

02. Section 14 of the Act provides that, “*No civil, criminal or other legal proceedings shall lie against the Chairperson, Members or officers performing functions under this Act, or under authority of the Commission, in respect of anything which is done in good faith or intended to be done in pursuance of this Act by or under the authority of the Commission.*”

03. Thus, the FIR No. 120/2020 dated 30.04.2020, P.S. Special Cell (SB) and other similar proceedings against the Petitioner, if any, are illegal and unlawful being in grave breach of the statutory protection provided to the Chairperson of the Delhi Minorities Commission for actions undertaken in good faith in his official capacity under the authority of the said Act.

E. Because in the FIR No. 120/2020 dated 30.04.2020 registered at P.S. Special Cell (SB), no offence under Section 124A of the IPC is made out against the Petitioner. As such, the Petitioner’s liberty

deserves to be preserved and he is eligible for protection from arrest.

01. Section 124A of the IPC, which deals with sedition, states,

“Whoever, by words, either spoken or written, or by signs, or by visible representation, or otherwise, brings or attempts to bring into hatred or contempt, or excites or attempts to excite disaffection towards, the Government established by law in India, shall be punished with imprisonment for life, to which fine may be added, or with imprisonment which may extend to three years, to which fine may be added, or with fine.

Explanation 1.—The expression “disaffection” includes disloyalty and all feelings of enmity.

Explanation 2.—Comments expressing disapprobation of the measures of the Government with a view to obtain their alteration by lawful means, without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section. Explanation 3.—Comments expressing disapprobation of the administrative or other action of the Government without exciting or attempting to excite hatred, contempt or disaffection, do not constitute an offence under this section.”

02. That the Hon’ble Supreme Court in ***Common Cause vs Union of India* 2016 SCC Online SC 903** has categorically stated that, *“the authorities while dealing with offences under Section 124 A of the India Penal Code shall be guided by the principles laid*

down by the Constitution Bench in Kedar Nath Singh vs State of Bihar (1962) Suppl. 3 SCR 769.”

It is pertinent to point out that the use of the term “authorities” by the Hon’ble Supreme Court includes the police, and not merely the Courts. The principles stipulated in the Kedar Nath Singh judgment are therefore binding and must guide police action at the stage of registration of F.I.R under S.124A IPC as well as during investigation.

03. That in *Kedar Nath Singh vs State of Bihar (1962) Suppl. 3 SCR 769* the Hon’ble Supreme Court upheld the constitutionality of Section 124A IPC by narrowly and strictly construing the ingredients of the offence. The Hon’ble Court held, *“Hence any acts within the meaning of s. 124A which have the effect of subverting the Government by bringing that Government into contempt or hatred, or creating disaffection against it, would be within the penal statute because the feeling of disloyalty to the Government established by law or enmity to it imports the idea of tendency to public disorder by the use of actual violence or incitement to violence. In other words, any written or spoken words, etc., which have implicit in them the idea of subverting Government by violent means, which are compendiously included in the term 'revolution', have been made penal by the section in question. But the section has taken care to indicate clearly that strong words used to express disapprobation of the measures of Government with a view to their improvement or alteration by lawful means would not*

come within the section. Similarly, comments, however strongly worded, expressing disapprobation of actions of the Government, without exciting those feelings which generate the inclination to cause public disorder by acts of violence, would not be penal. In other words, disloyalty to Government established by law is not the same thing as commenting in strong terms upon the measures or acts of Government, or its agencies, so as to ameliorate the condition of the people or to secure the cancellation or alteration of those acts or measures by lawful means, that is to say, without exciting those feelings of enmity and disloyalty which imply excitement to public disorder or the use of violence.”

“..The provisions of the sections read as a whole, along with the explanations, make it reasonably clear that the sections aim at rendering penal only such activities as would be intended, or have a tendency, to create disorder or disturbance of public peace by resort to violence. As already pointed out, the explanations appended to the main body of the section make it clear that criticism of public measures or comment on Government action, however strongly worded, would be within reasonable limits and would be consistent with the fundamental right of freedom of speech and expression. It is only when the words, written or spoken, etc. which have the pernicious tendency or intention of creating public disorder or disturbance of law and order that the law steps in to prevent such activities in the interest of public order. So construed, the section, in our opinion, strikes the correct balance between individual

fundamental rights and the interest of public order. It is also well settled that in interpreting an enactment the Court should have regard not merely to the literal meaning of the words used, but also take into consideration the antecedent history of the legislation, its purpose and the mischief it seeks to suppress. Viewed in that light, we have no hesitation in so construing the provisions of the sections impugned in these cases as to limit their application to acts involving intention or tendency to create disorder, or disturbance of law and order, or incitement to violence.” (emphasis supplied)

04. That the curtailment of free speech by casting an overbroad net of penal statutes contrary to Article 19(2) of the Constitution has been specifically commented upon by the Hon’ble Supreme Court of India while striking down Section 66A of The Information Technology Act in its judgment in **Shreya Singhal vs Union of India (2015) 5 SCC 1**.

05. That in *Shreya Singhal vs Union of India (2015) 5 SCC 1*, the Constitution Bench of the Hon’ble Supreme Court, speaking through J. Nariman, has pointed out that for speech to not be protected under Article 19(1)(a), it must have an intimate connection to public disorder. Mere disaffection, or even tendency of the speech to cause public disorder is not enough for the speech to be penalized. The Hon’ble Court held, “*Mere discussion or even advocacy of a particular cause howsoever unpopular is at the heart of Article 19(1)(a). It is only when such discussion or advocacy reaches the level of incitement that*

Article 19(2) kicks in. It is at this stage that a law may be made curtailing the speech or expression that leads inexorably to or tends to cause public disorder.” (Emphasis supplied)

06. That in **Javed Habib vs State of NCT of Delhi (2007) 96 DRJ 693**, the Hon’ble Delhi High Court held, *“It is settled law that under Section 124A, the Court must not look to a single sentence or isolated expression but take into consideration the article as a whole and give it a full, free and generous consideration and deal with it in a fair and liberal spirit. While considering offence under Section 124A or 505B, the court has to look to the real intention and spirit of the article. It has to see whether the general tendency of the article is such that the article is intended to excite the feelings of a section of the society or the article was a severe criticism of the acts of the government. Holding an opinion against the Prime Minister or his actions or criticism of the actions of government or drawing inference from the speeches and actions of the leader of the government that the leader was against a particular community and was in league with certain other political leaders, cannot be considered as sedition under Section 124A of the IPC. The criticism of the government is the hallmark of democracy. As a matter of fact the essence of democracy is criticism of the Government. The democratic system which necessarily involves an advocacy of the replacement of one government by another, gives the right to the people to criticize the government. In our country, the parties are more known by the leaders. Some of the political parties in fact are like personal political groups of the*

leader. In such parties leader is an embodiment of the party and the party is known by the leader alone. Thus, any criticism of the party is bound to be the criticism of the leader of the party.

While considering offences under Section 124A and 505B of IPC, the Court has to keep in mind the distinction between criticism of the government and the criticism by a leader of a political party. Where the leader of a political party becomes the head of the government, any criticism of the person and his policies as head of the political party or Government can not be viewed as sedition. The leader of the political party who appeals to the people to vote for him and his party, who reaches out to the people on the basis of his party is also open for criticism by the people for the very policies. Such criticism may not be in polite language and the tendency of the article may be to excite people not to vote for the party or to support such leaders or to project the leader as anti to a section of the society, such a criticism of the leader cannot be considered as offence under Section 124A or under Section 505B IPC. Explanation 3 to Section 124A excludes such comments from preview of Section 124A, even if such comments amount to disapprobation of the actions of the Government." (Emphasis supplied)

07.The Petitioner's social media posts dated 28.04.2020 highlighted the plight of the minority population which had been targeted by certain elements in society, and further acknowledged the role of the international fraternity in raising concerns regarding the wellbeing of Indian Muslims. Viewed as

a whole, the statement does not allude to any tendency, leave alone incitement, of violence against the government or any section of the population. The social media post made by the Petitioner does not contain any reference to the Government, or the State, or even to any political party, or leader, but is only directed at “**Bigots**”, referring to persons in India and outside who have made hate speeches and posted hate speech on their social media accusing members of the Muslim community of spreading Coronavirus. The said social media posts of the Petitioner do not therefore constitute the offence of sedition, as defined and interpreted by the Hon’ble Supreme Court and High Courts.

08. The social media post does not constitute an offence under Section 153A IPC, as it requires promotion of feeling of hatred or ill-will “between different” religious or racial or linguistic or regional groups. The social media post however only refers to “Hindutva bigots”, which is not a religious group or community, but instead refers in this context to persons on social media posting hate speech and propagating communal disharmony. Propagation of hate speech is not a tenet of any religion.

09. The Petitioner also places reliance *inter-alia* on the judgments in **Bijoe Emmanuel vs State of Kerala (1986) 3 SCC 615**; **Bilal Ahmed Kaloo vs State of AP (1997) 7 SCC 431** and **S Rangarajan vs P Jagjivan Ram (1989) 2 SCC 574** to demonstrate that no offence has been made out against the Appellant under Section 124A of the IPC.

F. Because in the FIR No. 120/2020 dated 30.04.2020 registered at P.S. Special Cell (SB), no offence under Section 153A of the IPC is made out against the Petitioner. As such, the Petitioner's liberty deserves to be preserved and he is eligible for protection from arrest.

01. Section 153A of the IPC pertains to the offence of "*promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony.*"

02. That the locus classicus on Section 153A IPC is the judgment of the Hon'ble Supreme Court in **Balwant Singh vs State of Punjab (1995) 3 SCC 214** wherein slogans like "*Khalistan Zindabad*" and "*Raj Karega Khalsa*" were held by the Hon'ble Court to not amount to an offence under Section 153A IPC. The Hon'ble Court held, "*In so far as the offence under Section 153A Indian Penal Code is concerned, it provides for punishment for promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, caste or community or any other ground whatsoever or brings about disharmony or feeling of hatred or ill-will between different religions, racial, language or regional groups or castes or communities. In our opinion only where the written or spoken words have the tendency or intention of creating public disorder or disturbance of law and order or affect public tranquility, that the law needs to step in to prevent such an activity.*"

“The intention to cause disorder or incite people to violence is the sine qua non of the offence under Section 153A Indian Penal Code and the prosecution has to prove the existence of mensrea in order to succeed.” (Emphasis supplied)

03.That the Petitioner’s social media posts have no reference whatsoever to any intention to cause disorder or disturb public peace, instead it contains the opposite sentiment, it is an appeal to people to stop “hate campaigns and lynchings and riots”. It is an appeal to peace and communal harmony, to uphold the values and rights enshrined in the Constitution of India.

04.The social media posts dated 28.04.2020 made by the Petitioner acknowledges that certain elements in society are falsely vilifying and targeting Muslims, and that the international Arab community has expressed concerns to protect the Muslim minorities by engaging in diplomatic channels. It further expresses that targeting and persecution of minority Muslims in India must be immediately discontinued, and that further such persecution could result in unfortunate outcomes, with the Arab community no longer staying silent towards the situation. Further, the social media posts are directed at “bigots” and caution them to refrain. Thus, a perusal of the statement made by the Petitioner, makes it plain that by no stretch of imagination does it intend to, or actually incite violence, or call for propagation of enmity between any groups. If anything, it calls for immediate cessation of communally targeted persecution of minority Muslims, and that does not constitute an offence under Section 153A IPC. In fact the post is in

furtherance of the duty of every Indian citizen under Article 51A (e) of the Constitution of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities.

- G.** That the registration of the abovementioned FIR, on the basis of the motivated, scurrilous and untenable complaint amounts to a gross abuse of the process of law. As detailed herein, no offence whatsoever is made out from the averments made in the complaint. The registration of the abovementioned FIR is against the settled position of the law and betrays a complete non-application of mind.
- H.** That the social media posts of the Petitioner have not had the effect of creating disorder or disturbance or disturbing public peace. In fact, it is the malicious and sensationalist media coverage, through fabrication and misrepresentation of his social media posts by some select media houses and sections of society which have resulted in large-scale verbal attacks against the Petitioner on social media, as well as motivated criminal complaints being filed against him.
- I.** That it is the constitutional duty of every citizen, particularly one who holds an important public office, like Chairperson of the Delhi Minorities Commission, to speak out and send a message against the propagation of enmity or hatred between religious groups. Ever since late March 2020, when the Tablighi Jamaat event has been used to spread hatred against the Muslim community, prominent government officials and political leaders have warned against the

communalisation of the coronavirus pandemic and attacks against Muslims.

On 6th April, the **Vice President of India, Mr. Venkaiah Naidu** “called for steering clear of untenable generalisations about communities and not viewing events from the prism of prejudices and biases.”

<https://vicepresidentofindia.nic.in/pressrelease/check-urgently-virus-misinformation-covid-19-vice-president>

It is reported that the **Chief Minister of Karnataka** in early April warned against this, “*BS Yediyurappa was speaking to a regional media channel when he said "Nobody should speak a word against Muslims. This is a warning. If anyone blames the entire Muslim community for some isolated incident, I'll take action against them also without a second thought. Will not allow that to happen."*

<https://www.indiatoday.in/india/story/karnataka-cm-yediyurappa-warns-against-communalising-coronavirus-pandemic-opposition-welcomes-remarks-1664490-2020-04-08>

J. That the F.I.R amounts to a malicious and motivated attempt to target the Petitioner who is well known for his public stand against religious communalism. Time and again Courts have cautioned against the misuse of penal provisions against freedom of speech and against the expression of views that may not be liked by certain individuals.

K. That since the outbreak of violence in North East Delhi, in February 2020, the Petitioner, as Chairperson of the Delhi

Minorities Commission, has in the discharge of his official duties been engaged in restoration of social harmony and ensuring justice for victims. The complaints and FIRs being lodged against the Petitioner are an attempt to overawe and obstruct a public servant from discharging his duty.

L. That it is also well known that the Petitioner, as a public spirited individual and a distinguished member of the Muslim community has consistently spoken out against attacks, persecution and discrimination against the Muslim community, whether by State or by non-state actors. The registration of an F.I.R on such a frivolous, unsubstantiated and ambiguous complaint for a tweet, reveals that the petitioner is being targeted for his views and his work.

M. That as recently as 24th April, 2020, the Hon'ble Supreme Court directed that no coercive steps shall be taken against a journalist against whom multiple F.I.R's *inter-alia* under S.153A IPC had been registered, holding that, such matters involving freedom of speech and expression, must be considered keeping in mind certain principles, including,

(i) The need to ensure that the criminal process does not assume the character of a vexatious exercise by the institution of multifarious complaints founded on the same cause in multiple States

(Para 12 (i) of the Order dated 24.4.2020 of the Hon'ble Supreme Court in Arnab Ranjan Goswami v. Union of India W.P. Crl Diary No. 11006/2020)

- N. That anticipatory bail ought to be granted to the Petitioner as custodial interrogation is not required in the present case. All material relevant to the case is documentary in nature and already available in the public domain. There are no recoveries to be effected from the Petitioner, nor is there any information in the Petitioner's sole custody which is relevant to the case. Thus, no purpose will be served by taking the Petitioner in custody, other than inflicting harassment, suffering and humiliation on a 72 year old man with high standing in national and international society.
- O. That in repeated judgments, the Hon'ble Supreme Court has held that personal liberty of a person is very precious and it should only be curtailed when it is imperative. In this regard, reliance is placed *inter-alia* on **Siddharam Satlingappa Mhetre v. State of Maharashtra; (2011) 1 SCC 694** and **Arnesh Kumar v. State of Bihar; (2014) 8 SCC 273**.
- P. That in **Siddharam Satlingappa Mhetre v. State of Maharashtra; (2011) 1 SCC 694**, the Hon'ble Supreme Court has held, "*Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.*"
- Q. That in **Arnesh Kumar v. State of Bihar; (2014) 8 SCC 273**, the Hon'ble Supreme Court has held, "*... no arrest should be made only because the offence is non-bailable and cognizable and*

therefore, lawful for the police officers to do so. The existence of the power to arrest is one thing, the justification for the exercise of it is quite another. Apart from power to arrest, the police officers must be able to justify the reasons thereof. No arrest can be made in a routine manner on a mere allegation of commission of an offence made against a person. It would be prudent and wise for a police officer that no arrest is made without a reasonable satisfaction reached after some investigation as to the genuineness of the allegation.”

Thus, arrest can only be made after the police officer has reached some conclusion as to the genuineness of the allegation. In the present case, the allegations themselves are demonstrably not with regard to any offence in which the Petitioner could be accused to have been guilty. Thus, no arrest ought to be permitted in the present case.

R. That the Petitioner states that it is the natural right of every individual to be entitled to his liberty and freedom and further that no such individual should be denied the equal protection of the law. That is why Article 14 and Article 21 of the Constitution of India provide for equality before the law and that no person shall be deprived of his personal liberty except in accordance with the procedure established by law. That, in view of this constitutional protection, the Petitioner herein states that he should be accorded protection against arrest, as no offence whatsoever is made out against him.

- S. That the allegations against the Petitioner are manifestly untenable, unsustainable in law and on facts and even if taken on their face value, they do not make out any case against the Petitioner herein. Such frivolous allegations cannot be allowed to be a ground for proceeding against the Petitioner and harass him by curtailing his liberty and further injuring his reputation and good standing in national and international society. Arrest and incarceration of the Petitioner in the present case would thus tantamount to a gross abuse of the process of law and a grave miscarriage of justice.
- T. That the Petitioner has no criminal antecedents. No case has ever been filed against him all these 72 years of his life. He is a respectable person in the national and international society and a public servant serving as Chairperson of the Delhi Minorities Commission. The Petitioner has deep roots in society and there is no possibility of the Petitioner fleeing from the legal process.
- U. That to check arbitrary and malafide actions by the police during investigation, the rights of an accused person were stipulated by the Hon'ble Supreme Court in its judgment in *DK Basu vs State of West Bengal (1997) 1 SCC 416*, which were codified in the Cr.P.C. vide amendments made through Act 5 of 2009.
- 01.** Section 41A of the Cr.P.C. mandates that an accused in a cognizable offence be served a notice for appearance before the police for the purposes of investigation. Section 41A(3) provides that if such a person complies with the said Notice, then no arrest is to be made. In the present case, the police

failed to serve any written notice on the Petitioner despite repeated requests, yet insisted on taking the Petitioner to PS Cyber Cell, Dwarka. These actions of the police militate against the letter and spirit of Section 41A Cr.P.C. and no arrest of the Petitioner ought to be permitted in brazen violation of the mandate of the said provisions. It bears repetition here that the Petitioner is a public servant holding a statutory post, available and willing to cooperate with the investigation.

02. That the Petitioner, being a 72 year old senior citizen, comes within the ambit of Section 160 Cr.P.C. which mandates that for the purposes of investigation, the Petitioner shall be examined at his residence and not be compelled to appear at a police station. The relevant extract of Section 160 CrPC reads:

160. Police officer's power to require attendance of witnesses.

(1) Any police officer, making an investigation under this Chapter may, by order in writing, require the attendance before himself of any person being within the limits of his own or any adjoining station who, from the information given or otherwise, appears to be acquainted with the facts and circumstances of the case; and such person shall attend as so required: Provided that no male person under the age of fifteen years or above the age of sixty five years or a woman or a mentally or physically disabled person shall be required to attend at any place other than the place in which such person resides.

V. That after almost two hours in the evening of 6th May 2020, the police officials while leaving the residence of the Petitioner at

around 8:00 P.M., orally directed the Petitioner to bring his laptop and mobile phone to Cyber Cell, Dwarka on 8th May, 2020. It is undisputed that the said social media post of the Petitioner dated 28 April, 2020, on Facebook and Twitter is available in the public domain, and the Petitioner has not denied the same. The Petitioner's personal laptop and mobile phone are not germane to and have no bearing on the present investigation. The Petitioner's devices contain personal information relating to his privacy and he apprehends misuse of the same. This appears to be a fishing and roving exercise extraneous to the needs of the present investigation.

- W.** That the Petitioner is a senior citizen aged 72 years. He is a heart-patient and suffers from hypertension requiring specific diet and medicines on a timely basis. His old age and related ailments make him susceptible and vulnerable to the Covid-19 coronavirus, and in such conditions it is against the ends of justice to compel his appearance in a police station or to take him into custody.
- X.** That the Petitioner is ready to abide with all and any condition that may be imposed upon him in the event of grant of anticipatory bail. The Petitioner undertakes to cooperate with the investigating agency as and when called for, and will join the investigation as directed.
- Y.** That the Petitioner states that he has detailed special circumstances which entitle him to the relief as prayed for which is necessary to prevent miscarriage of justice and the abuse of legal process.

Z. That the Petitioner holds a real apprehension of his arrest on the basis of a motivated and absolutely untenable FIR and hence is seeking protection from this Ld. Court against his arrest, to secure the ends of justice and prevent abuse of legal process.

AA. That this is the first petition under Section 438 of the Code of Criminal Procedure filed by the Petitioner before this Hon'ble Court, in the present case.

AB. That the Petitioner craves leave of this Hon'ble Court to add, alter or amend any ground, with the permission of this court during oral arguments.

AC. That no similar petition has been filed before this Hon'ble Court or the Hon'ble Supreme Court of India, or any other judicial forum.

PRAYER

In view of the facts and circumstances stated above, as well as the legal grounds relied on by the Petitioner, it is most humbly prayed that this Hon'ble Court may be pleased to:

- i.** Direct the SHO/Investigating Officer, that in the event of arrest of the present Petitioner in FIR No. 120/2020 dated 30.04.2020 registered at Police Station Special Cell (SB) under Sections 124A/153A of the Indian Penal Code, he be immediately released on bail; and
- ii.** Direct that no coercive measures be taken against the Petitioner; and
- iii.** Direct that the laptop and mobile of the Petitioner not be seized; and/or
- iv.** Pass any such other or further order(s) as it may deem fit in the facts and circumstances of this case.

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

PETITIONER
Dr. ZAFARUL-ISLAM KHAN

Through



**Vrinda Grover, Ratna Appender
and Soutik Banerjee
Advocates
N- 14 A, Saket,
New Delhi - 110017
9810806181
vrindagrover@gmail.com**

**New Delhi
Dated: 08.05.2020**

12. F.I.R. Contents (attach separate sheet, if required) (प्रथम सूचना रिपोर्ट तथ्य):

To, the Duty Officer, PS Spl. Cell, Delhi Sir, A Complaint of Sh. Kaushal Kant Mishra S/o Zeeshan Diwan r/o 729 Sector - A , Pocket B & C, Vasant Kunj, North Delhi was received through ACP/Safdarjung Enclave, Delhi alleging that on 28-04-2020. Dr. Zafarul Islam Khan, Chairperson, Delhi Minority commission has made a social media post on Twitter and facebook and the contents of the post are provocative, intended to cause disharmony and creat rift in the society. It is also mentioned in the complaint that taking into consideration the sensitive environment, the comments are deliberate and seditious with malicious intent to further hurt sentiments. On the basis of the contents of the complaint and screenshots attached, prima facia offence u/s 124A/153A IPC is made out. Kindly register a case u/s 124A/153A IPC and further investigation may be handed over to me. Ruqqa is being sent through Ct. Rakesh No. 954/Spl Cell. Delhi. Date and time of offence - 28 April 2020 onwards Place of offence Delhi area including internet Date and time of sending ruqqa- 30-04-2020 at 09.20 PM Sd English 30/04/2020 (Parveen Kumar) Insp. Cyber Crime Unit - CyPAD, Special Cell No. D-1/860, PIS No. 16940054 30/04/2020 कार्यवाही पुलिस अज थाना तहरीर की मौसुलगी पर मन DO ने मुकद्मा हजा बगर्ज जुर्म मजकूर U/S 124A/153A IPC का दर्ज CCTNS Computer पर किया जाकर असल तहरीर मय CCTNS Computer FIR Copy SHO/Special Cell 1,की सील से सर्वमोहर करके बदस्त Ct. Rakesh No. 954/Spl Cell हवाले Insp. Parveen Kumar No. D-1/860, PIS No. 16940054 साहब को भिजवाई गई। जो आईन्दा तपतीश अमल मे लायेगे। दीगर नकुलात व कागजात बजरिये डाक अफसरान वाला की खिदमत मे अरसाल होंगे। Type by operator in the presence of Do and Checked by Do.

13. Action Taken Since the above information reveals commission of offence(s) u/s as mentioned at Item No. 2: (की गयी कार्यवाही : चूँकि उपरोक्त जानकारी से पता चलता है कि किया गया अपराध मद सं. 2. में उल्लेख धारा के तहत है) :

(I) Registered the case and took up the investigation:

(प्रकरण दर्ज किया गया और जांच के लिए लिया गया):

(II) Directed (Name of the I.O.)(जांच अधिकारी का नाम) : PARVEEN KUMAR
Rank (पद) : (INSPECTOR) No. (सं.) : 16940054

to take up the investigation or

(III) Refused investigation due to (जांच के लिए):

OR

(IV) Transferred to P.S. (Name) (थाना):

District (जिला) :

on point of jurisdiction (को क्षेत्रधिकार के कारण हस्तांतरित)

F.I.R read over to the complainant/informant, admitted to be correctly recorded and a copy given to the complainant/informant free of cost : (शिकायतकर्ता/सूचनाकर्ता को प्राथमिकी पढ कर सुनाई गयी, सही दर्ज हुई माना और एक कॉपी निशुल्क शिकायतकर्ता को दी गयी):

R.O.A.C.(आर. ओ. ए.सी):



Zafarul-Islam Khan ✓

www.facebook.com/khan.zafarul

Chairman, Delhi Minorities Commission
Govt of NCT of Delhi

Thank you Kuwait for standing with the Indian Muslims! The Hindutva bigots calculated that given the huge economic stakes involved the Muslim and Arab world will not care about the persecution of Muslims in India.

The bigots forgot that Indian Muslims enjoy huge goodwill in the eyes of the Arab and Muslim world for their services over centuries to Islamic causes, excellence in Islamic and Arabic scholarship, cultural and civilisational gifts to world heritage. Names like Shah Waliullah Dehlavi, Iqbal, Abul Hasan Nadwi, Wahiduddin Khan, Zakir Naik and many others are respected household names in the Arab and Muslim world.

Mind you, bigots, Indian Muslims have opted until now not to complain to the Arab and Muslim world about your hate campaigns and lynchings and riots. The day they are pushed to do that, bigots will face an avalanche.

Dr Zafarul-Islam Khan
Chairman, Delhi Minorities Commission
28 April 2020

Annexure A-3 (Colly)

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47



CAIRO UNIVERSITY
FACULTY OF DAR AL-ULOOM
HIGHER STUDIES



Cairo,
April 25, 1979.

TO WHOM IT MAY CONCERN

The Council of the Faculty of Dar Al-Uloom, in its meeting of 4 July 1978, awarded Mr. Zafarul Islam Khan, of Indian nationality (born on 12 March 1948 at Azamgarh, India), the degree of Master of Arts in the branch of Islamic Studies (Department of Islamic History & Islamic Civilisation) in Excellent grade.

The Senate of Cairo University, in its meeting of 31 July 1978, approved the award of the said degree. The holder of the degree is entitled to pursue his Ph.D. studies at this university.

This certificate is given to the above mentioned at his request.

Sadia
Abdul Nazeem

REGISTRAR

DEAN

Faculty of Dar Al-Uloom.



48
48

THE VICTORIA UNIVERSITY OF MANCHESTER

By virtue of the power to award degrees granted to it by the Charter and Statutes and by the authority of the Senate the University has this day awarded the Degree of

DOCTOR OF PHILOSOPHY

to

Zafarul-Islam Khan

who has satisfied the Examiners for the Degree.

December 10th, 1987

K. E. Kitehen
Registrar

NEWS / INDIA

Why Arabs are speaking out against Islamophobia in India

Anger in Gulf region as right-wing Hindus target Muslims, accusing them of a 'conspiracy' to spread coronavirus.

by **Bilal Kuchay**

30 Apr 2020



A wave of Islamophobic posts was unleashed on social media by right-wing Hindus, some of them employed in Gulf countries [File: P Ravikumar/Reuters]

In the past couple of weeks, the Organisation of Islamic Cooperation (OIC), the Kuwait government, a royal princess of the United Arab Emirates (UAE), as well as a number of Arab activists have called out Islamophobic hate speech by Indians seen to be accusing the country's Muslims of spreading the novel coronavirus.

A barrage of tweets and statements from individuals and institutions in the Gulf expressing their outrage over the hateful social media posts forced the Indian government to respond, including a Twitter post by Prime Minister Narendra Modi in which he stressed that "COVID-19 does not see race [or] religion".

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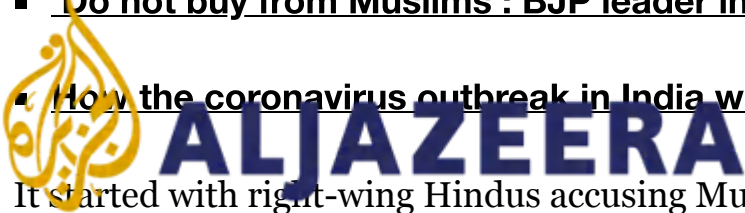
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X

▪ 'Do not buy from Muslims': BJP leader in India calls for boycott

50

▪ How the coronavirus outbreak in India was blamed on Muslims



It started with right-wing Hindus accusing Muslims of a "conspiracy" to spread the coronavirus after dozens of cases were linked to a congregation of Tablighi Jamaat, a Muslim missionary movement, at their headquarters in New Delhi in the middle of March.

Hashtags such as #CoronaJihad trended for days on Twitter and panellists in TV debates called them "human bombs", while many called for a ban on Jamaat. Its New Delhi office has been sealed.



On April 19, India's Ministry of Home Affairs said more than 4,000 of the nearly 15,000 cases detected until that day were linked to the Jamaat, whose chief Mullah Saad Kandhalvi was charged with "culpable homicide" and money laundering and is likely to be arrested.

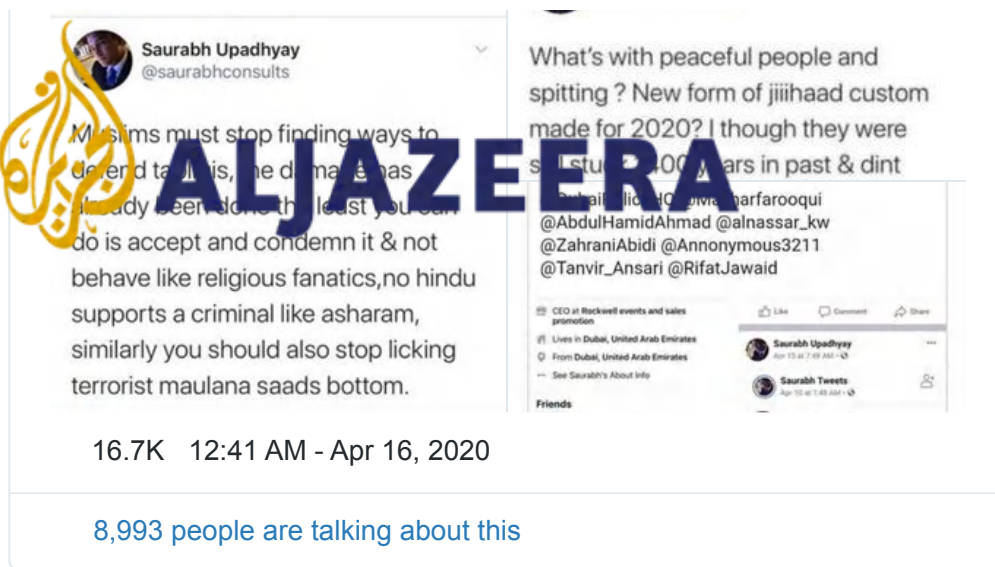
On Thursday, the total number of coronavirus cases in India was more than 33,000, with more than 1,000 deaths.

Arabs flag hateful posts

Following the Jamaat issue, a wave of Islamophobic posts was unleashed on social media by right-wing Hindus, some of them employed in Gulf countries.

Dubai-based Indian, Saurabh Upadhyay, asked Muslims to "accept they were the source of the pandemic" and called for the death of Jamaat members, describing them as "terrorists". He deleted his tweets after social media users in the Gulf and India called him out.





An old tweet by Tejasvi Surya, a young member of parliament belonging to Modi's Bharatiya Janata Party (BJP), also resurfaced, provoking further outrage.

In his 2015 post, Surya had quoted a Canadian-Pakistani writer as claiming that "95 percent of Arab women have never had an orgasm in the last few hundred years".

Such Islamophobic comments are particularly hurtful when originating from individuals who have lived and worked in the Gulf.

SULTAN BARAKAT, DOHA INSTITUTE

"The level of hubris of the Hindutva fascists shocked people throughout the world, changing previously held opinions," Dr Farhan Mujahid Chak, who teaches political science in the Gulf Studies programme at Qatar University, told Al Jazeera.

Princess Hend al-Qassimi, a member of the UAE royal family, warned "openly racist and discriminatory" Indians in the Gulf that they "will be fined and made to leave" the country.

In the past month, at least six Hindus working in the Gulf region have lost their jobs or have been charged for their social media posts.

About 8.5 million Indians live and work in Gulf countries, a significant number of them Hindus.

India's trading relations with the Gulf Cooperation Council (GCC) member states - Bahrain, Kuwait, Oman, Qatar, Saudi Arabia and the UAE - has transformed considerably over the years, with the bilateral trade volume surpassing the \$100b mark.

"Every year, more than \$55bn are transferred to India from the Gulf countries, and more than 120 billion annually from all Muslim countries. Indians (mostly Hindus) are treated well in the Gulf countries," Kuwait-based activist Abdur Rahman Nassar tweeted.

"In return, how are Muslims treated in India?" he asked.

Another Kuwait national, lawyer and director of International Human Rights group, Mejbel al-Sharika, tweeted that he will "adopt the cause of Muslims in India" at the UN Human Rights Council in Geneva "for free".



Amb Pavan Kapoor
@AmbKapoor

India and UAE share the value of non-discrimination on any grounds. Discrimination is against our moral fabric and the Rule of law. Indian nationals in the UAE should always remember this. [twitter.com/PMOIndia/statu...](https://twitter.com/PMOIndia/status/1250000000000000000)

PMO India @PMOIndia
COVID-19 does not see race, religion, colour, caste, creed, language or borders before striking.

Our response and conduct thereafter should attach primacy to unity and brotherhood.

We are in this together: PM @narendramodi

4,432 4:26 PM - Apr 20, 2020

2,145 people are talking about this

Diplomatic tensions

On Monday, in what was a clear sign of the issue escalating in the Arab world, Kuwait expressed its "deep concern" over the treatment of India's Muslims and asked the Organisation of International Cooperation (OIC) to intervene.

"Did those who commit crimes against humanity against Muslims in India and violate their rights think that Muslims in the world will remain silent about these crimes and do not move politically, legally and economically against them?" a statement by the general secretariat of the Kuwait Council of Ministers said.

Earlier, on April 18, the OIC had issued a statement, urging India to take urgent steps to "stop the growing tide of Islamophobia" in the country.

A day after the OIC statement, Modi tweeted: "COVID-19 does not see race, religion, colour, caste, creed, language or borders before striking. Our response and conduct thereafter should attach primacy to unity and brotherhood. We are in this together."

In the week after Modi's call for communal harmony, at least three Indian embassies in the Gulf region - Qatar, the UAE and Oman - tweeted about the shared values of "tolerance" and "pluralism" between India and the Arab world. ⁵³



ALJAZEERA



'Country of particular concern'

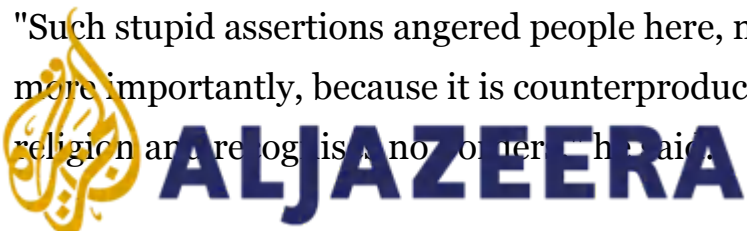
Princess al-Qassimi, who has emerged as one of the most prolific Arab voices against Islamophobia in India, last week wrote a column for the Gulf News, in which she said: "The world doesn't need another Hitler, but it needs another hero like Martin Luther, Nelson Mandela, or Gandhi."

"Killing your brethren doesn't make you a hero, it makes you a dictator and murderer. A snowballing movement has been started, which has reverberated across the Arab world," she wrote in her piece, titled I pray for an India without hate and Islamophobia.

On Sunday, Mohan Bhagwat, the chief of the far-right Rashtriya Swayamsevak Sangh (RSS), in an apparent reference to the Jamaat congregation in New Delhi, said in an online speech from the group's headquarters in Nagpur that it was "not right to blame the entire community for the mistakes of few individuals". The RSS is the ideological mentor of Modi's BJP.

Sultan Barakat, director of the Centre for Conflict and Humanitarian Studies at Qatar's Doha Institute, told Al Jazeera that people in the Gulf countries "felt outraged" over the

"Such stupid assertions angered people here, not only because it is Islamophobic but more importantly, because it is counterproductive to a global pandemic that is blind to religion and religious no longer," he said.



"Millions of Indians have been living in Arab countries for decades with hardly any discrimination against Indians - Hindu, Muslim or any other. Such Islamophobic comments are particularly hurtful when originating from individuals who have lived and worked in the Gulf."

India's former ambassador to the UAE, Talmiz Ahmed, called the Indians who posted comments against the Arabs and Muslims in India "extremely foolish individuals with very limited knowledge of politics or international affairs".

However, BJP spokesman GVL Narasimha Rao told Al Jazeera the issue will not have a negative effect on India's relationship with the Arab countries. "Because it is part of a propaganda and not real," he told Al Jazeera. "This is part of anti-India and anti-Hindu propaganda by inimical elements."

Rao's optimism appeared to be shortlived.

On Tuesday, in its worst rating since 2004, the US Commission on International Religious Freedom urged the State Department to designate India as a "country of particular concern" over "severe violations" of religious freedom.

Although India rejected the US report, calling it "biased", it will be hard for the country's Hindu nationalist government to ignore a growing global concern over the targeting of India's Muslims.

SOURCE: AL JAZEERA NEWS



Zafarul-Islam Khan ✓

www.facebook.com/khan.zafarul

Chairman, Delhi Minorities Commission
Govt of NCT of Delhi

Statement by Dr. Zafarul-Islam Khan

Yesterday, 28 April 2020, I issued a tweet on my twitter handle. Nothing more should be added to this tweet as done by many media establishments.

This tweet is in the background of how the issues of Muslims have been dealt with in our country. Be it lynching, riots, media bashing or redressal of their problems in political and administrative processes.

I have not complained against my country to any foreign government or organization nor I intend to do so in future. I am a patriot to the core and I have always defended my country abroad. However, at the same time I have always been vocal about the problems in our country like any other country but we and our political, constitutional and judicial system are capable to tackle them.

I have always defended my country in Arabic media and on channels like Al Jazeera where my defence of India during the Kargil War is still remembered by many in the Arab world. When Kuwait's Al-Mujtama magazine asked me years ago to write about Indian Muslims' viewpoint about Kashmir, the editor was shocked to see my article as it defended the Indian position and said that the Indian Muslims do not support secession of Kashmir from India. That article was published alongwith a rejoinder by a person in Pakistan and that was the last time I wrote for that magazine.

According to my knowledge, Indian Muslims have never complained against their country to outside powers. I, like other Indian Muslims, believe in rule of law, the Indian Constitution and the fine institutions our country has.

I must make it clear that I am not and never was a member of Aam Aadmi Party (AAP) and the Commission I head is a statutory and independent body governed by the Delhi Minorities Commission Act 1999. AAP or its government in Delhi do not run the Commission and are not accountable for what the Commission does.

I take this opportunity to bring to the notice of the media here that yesterday itself, United States Commission on International Religious Freedom said in its report that religious freedoms in India deteriorated sharply last year as the government allowed "campaigns of harassment and violence" against Muslims and other religious minorities to continue.

My views have been distorted on a few electronic media forums and many false statements/opinions have been attributed to me. I will take appropriate legal steps available to me against them.

29 April 2020
[end]



Zafarul-Islam Khan ✓

www.facebook.com/khan.zafarul

Chairman, Delhi Minorities Commission
Govt of NCT of Delhi

Statement by Dr. Zafarul-Islam Khan

1 May 2020

The tweet issued by me on 28 April 2020 thanking Kuwait for taking note of the persecution of Indian Muslims, in the context of the North East district's violence, has pained some people which never was my intention.

I realise that my tweet was ill-timed and insensitive in view of our country facing a medical emergency and fighting an unseen enemy. I apologise to all whose sentiments were hurt.

Further, the limitation of a tweet, which has to be very short by its very nature, was also responsible that the whole narrative was not made out in plain language. The matter was blown out of all proportions by adding things into it which was neither my intention nor was meant. A section of media added lies into it, distorted and fabricated its content and attributed inflammatory opinion into it. I did not say so nor intended such things as they have been attributed to my tweet.

I have already stated in my previous statement as to how I have defended India in the Arab world on crucial issues. I will continue to do so, far from complaining against my country to any other country or Arab or Muslim world. This is against our Constitution, against my own views, upbringing and against my religious belief which teaches me that 'love of homeland is part of Islam'.

I have taken serious note of a section of media which distorted my tweet and attributed to me things I never said. Appropriate legal notices have already been served on the news channel which championed in distorting my statement. If need be, further legal steps shall be taken.

I thank all my friends and well-wishers who stood by me in solidarity during this difficult time and I assure them that our struggle against bigotry and hate politics will continue within our institutions and within the framework of our Constitution which is the sole reference point of our polity.

[end]

Wajeeh Shafiq
Advocate on Record
Supreme Court of India

THROUGH E-MAIL

Date **01.05.2020**

To,

- 1. Bennett Coleman and Company Limited,**
[CIN: U22120MH1913PLC000391]
Times of India Building, Dr DN Road, Fort,
Mumbai, India, 400001
corporate.secretarial@timesgroup.com

Page | 1

and at

TimesNow, Plot No-FC 6, Second
Floor, Film City, Noida Sector 16A,
Near Laxmi Studio, Noida, India,
201301

and at

TimesNow, 1st Floor, Trade House,
Kamala Mill Compound, Senapati
Bapat Marg, Lower Parel, Mumbai,
India, 400013

- 2. Mr. Rahul Shivashankar,**
Editor, TimesNow
C/o TimesNow, Plot No-FC 6, Second
Floor, Film City, Noida Sector 16A,
Near Laxmi Studio, Noida, India,
201301

LEGAL NOTICE

Sir(s)/Madam(s),

Upon instruction and on behalf of Dr. Zafar-ul-Islam Khan, D-84, Abul Fazal Enclave-I, Jamia Nagar, New Delhi-220 025 (hereinafter referred to as “my Client”) you are hereby served the following Notice.

1. That you the noticee no.1 registered with the Registrar of Companies, Mumbai, own, manage and in all terms, are responsible for the overall and day to day functioning of the news channel running under the brand name ‘TimesNow’.

2. That you the noticee no.2 are the Editor of the channel “TimesNow” and are also the host of the prime time news show titled ‘India Upfront.’
3. That at 9 PM on 28.04.2020, you the noticee no.2 hosted and anchored a segment titled “Muslim Panel Chief relies on foreign ‘Guardians of Faith” on the aforesaid New Channel. The said program was in relation to the following tweet made by my Client at 5.32 pm, 28.04.2020:

*“Thank you #Kuwait for standing with #IndianMuslims!
#Islamophobia #Islamophobia_In_India @kuna_en
@kuwaittimesnews @OIC_OCI @Abdulmane
@ZahraniAbidi @LadyVelvet_HFQ @DrAlshoreka
@AHMAD_ALWAHIDAH @majedalenzi @JamalBahrain
@arabtimeskuwait @gulf_news @arabnews*

*Thank you Kuwait for standing with the Indian Muslims!
The Hindutva bigots calculated that given the huge
economic stakes involved the Muslim and Arab world will
not care about the persecution of Muslims in India.*

*The bigots forgot that Indian Muslims enjoy huge goodwill
in the eyes of the Arab and Muslim world for their services
over centuries to Islamic causes, excellence in Islamic and
Arabic scholarship, cultural and civilizational gifts to
world heritage. Names like Shah Waliullah Dehlavi, Iqbal,
Abul Hasan Nadwi, Wahiduddin Khan, Zakir Naik and
many others are respected household names in the Arab
and Muslim world.*

*Mind you, bigots, Indian Muslims have opted until now
not to complain to the Arab and Muslim world about your
hate campaigns and lynchings and riots. The day they are
pushed to do that, bigots will face an avalanche.”*

The aforesaid tweet is available at
https://twitter.com/khan_zafarul/status/1255105032732553218.

4. That based on this standalone tweet and without any further comment from my client, TimesNow in the segment mentioned above, showed

infographics and you the noticee no.2 made gestures, insinuations and stated following outright untruths and false statements, regarding the words of my Client in the abovementioned tweet, which my client has watched at Delhi:

- i) In the said tweet my Client thanked Kuwait for standing with the Indian Muslims, which was falsely stated as my Client having thanked the Arab world, ergo the thanking of a singular named country was falsely stated to be the thanking of the entire geo-political region;
- ii) In the said tweet, my Client mentioned Dr. Zakir Naik as being one among other Indian Muslims who are popular in the Arab World. This was falsely stated as my Client having tweeted that Dr. Zakir Naik was a household name amongst the Muslims in this country, i.e. India;
- iii) It was falsely stated that my Client had tweeted- to not take Indian Muslims for granted; that Indian Muslims were going to complain to certain Muslim countries and there would be an avalanche of reprisal; and that Indian Muslims were ready to internationalize the issue;

These statements attributed to my Client do not form part of the tweet as was falsely stated in the program in question.

- iv) That in the tweet my Client used the term 'Hindutva bigots' which was falsely stated to be 'Indian bigots'.
- 5) That thereafter, you the noticee no.2 attributed the following statements to my Client in his tweet:
 - a. "This individual is appealing to other nations."

- b. “By inviting foreign countries to arbitrate to meddle in India’s internal affairs is akin to behaving like these separatist elements in J&K who have constantly pushed for third party mediation in Indian affairs”
- c. “He is suggesting that the nation is overrun by bigots, that in fact Hindu bigots, not just Hindutva bigots but Indian bigots are out to punish Muslims.”
- d. “He is also sowing the seeds of discord...His generalization is damaging, he has not backed them with facts”

A bare perusal of my Client’s tweet under reference will show that these words are not present in the tweet and are in fact outright false statements made by you the noticee no.2.

- 6) That the statements mentioned hereinabove were followed by a call to action to the viewers of the program, to decide, if such a man as my Client should continue to head an important position as he does. It is stated that my Client is presently the Chairman of the Delhi Minorities Commission.
- 7) That TimesNow, being a part of the Bennet Coleman and Company Pvt. Ltd., which was established in 1913, is part of a proud journalistic tradition, about 106 years old. The Noticee no.2’s illustrious career includes working as an anchor and news editor at Times Now, who then moved to NewsX, where he was Editor in Chief and was brought back to replace the departure of Mr. Arnab Goswami, as Times Now’s Editor in Chief in 2016. As such you the noticee no.2 are well aware of the highest of journalistic standards and the repercussions of attributing mistruths, insinuations and outrightly false statements to an upstanding citizen. Further, his words and actions in the segment and program mentioned

hereinabove also promote inimical feelings between different religions, communities and people of different geographies.

- 8) That in light of the above, you the noticee no1 and noticee no.2 are liable for libel and defamation of my Client. You are further also liable for hate speech, inasmuch as promoting inimical feelings between Muslim and Non-Muslim Indians and further, also between Indians and the people of the Arabian geopolitical region.

Page | 5

In light of the above, you are hereby put to Notice and called upon **to run an apology towards my Client within three days** of receipt of this communication. The manner of the apology must be as under:

- I. Telecast at 9 PM.
- II. Displayed on screen for 30 mins continuously, segregated into:
 - a. First 5 minutes: As an infographic of easily readable text, carrying the name and branding of the channel, comprising of 40 percent of the displayed screen area on the right-hand side from top edge to the bottom edge. The Noticee no.2 is to read the apology, during the initial 5 minutes. Other words may be added after the apology as stated hereinafter has been read out, in the manner and in keeping with the tone, tenor and content of the apology to fill the remaining time of the 5 minute window, if such time remains:

“Dear Viewers,

On the program that aired on the 28th of April, 2020, a grave error was made. The channel and I, attributed certain statements to the respectable Dr. Zafar-ul-Islam Khan, Chairman of the Delhi Minorities Commission. Any part of the statements attributed to him, which are not

part of the plain text of the tweet, were not made by Dr. Zafar-ul-Islam Khan and he has mine and the channel's deepest and sincerest apologies. He is an outstanding and upright citizen of the Republic of India that is Bharat and works tirelessly for the upliftment and benefit of the minorities in Delhi and India. His academic and public life are beyond reproach. The channel and I are proud of his continued service to this great country. We sincerely hope that he accepts our apology."

- b. For the remainder 25 minutes, the above text of the apology is to be run as a ticker running along the bottom of the screen, in the manner and fashion of news items run on the ticker, as per practice.

Any deviation from the conditions of the apology, as stated above, or your failure to do as called upon will leave my Client, compelled to pursue criminal and civil remedies under the most stringent provisions of law including a suit for damages and compensation with a compound interest at 12%, compounded monthly till date of realization and pendente lite interest.

Please take notice accordingly.

With this

[Wajeeh Shafiq]

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Home / Delhi News / Delhi Minorities Commission chairman booked under sedition charges

Delhi Minorities Commission chairman booked under sedition charges

The FIR was filed on the complaint of a Vasant Kunj resident. The complaint reached the Lodhi Colony office of the anti-terror squad, special cell, through the assistant commissioner of police (ACP) Safdarjung Enclave. HT has a copy of the FIR.

DELHI Updated: May 03, 2020 00:20 IST

 **Karn Pratap Singh**
Hindustan Times, New Delhi



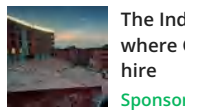
On Thursday, Zafarul Islam Khan issued an apology on social media regarding his April 28 post.(Burhaan Kinu/HT PHOTO)

The Delhi Police’s special cell on Thursday booked Delhi Minorities Commission chairman Zafarul Islam Khan under sedition charges, two days after he allegedly made “provocative” remarks in his social media posts.

Joint commissioner of police (special cell) Neeraj Thakur said that a first information report (FIR) has been registered against Khan under Indian Penal Code sections 124 A (sedition) and 153 A (Promoting enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony).

Khan, did not comment on the development. “I have not seen the FIR. I will comment only when I see it or know about it,” he said.

On Thursday he had issued an apology through his social media accounts. He had said that his tweet was ill-timed and insensitive and that it had “pained some people” but it was never his intention.

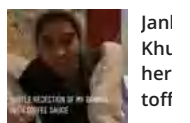


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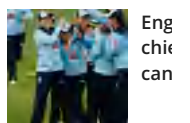
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The FIR was filed on the complaint of a Vasant Kunj resident. The complaint reached the Lodhi Colony office of the anti-terror squad, special cell, through the assistant commissioner of police (ACP) Safdarjung Enclave. HT has a copy of the FIR.

In his complaint, the Vasant Kunj resident alleged that on April 28, Delhi Minorities Commission chairperson Zafarul-Islam Khan made a social media post on Twitter and Facebook and the contents of the post are “provocative, intend to cause disharmony and create the rift in the society.”

Khan’s alleged communal remarks sparked sparked controversy . It also mentioned the name of a fugitive offender who has been booked under Unlawful Activities Prevention Act (UAPA), money laundering and terror-related cases. He has praised the man among others.

On Friday, Khan issued an apology on social media regarding his April 28 post. “I realise that my tweet was ill-timed and insensitive in view of our country facing a medical emergency and fighting an unseen enemy. I apologise to all whose sentiments were hurt,” Khan said in his statement.

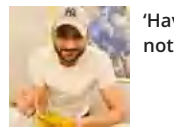
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- Safdarjung Enclave
- Delhi Police
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- Delhi Minorities Commission
- Delhi minority Commission chairman



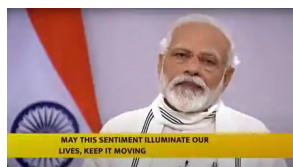
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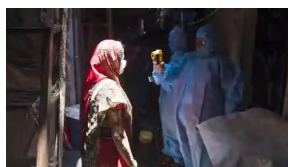
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3 dead, 200 fall sick after gas leak at Andhra Pradesh factory



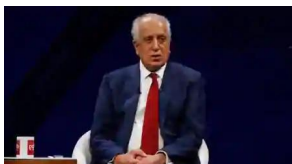
India’s identity imbibed with Lord Buddha’s teachings, beliefs, says PM Modi



Covid-19 update: Number of cases rise to 52,952 in India, death toll at 1,783



At Delhi airport, repatriated Indians to be screened, split into groups



US special envoy to visit India, Qatar, Pakistan to revive Afghan peace talks



Hyundai i20N prototype revealed for the first time in winter testing



Jio phone users to soon get their own Aarogya Setu app



New Covid-19 test, invented in India, may be deployed within a month

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Home / Delhi News / Delhi Covid-19 data devoid of area break-up; citizens in dark

Delhi Covid-19 data devoid of area break-up; citizens in dark

Delhi has 86 containment zones -- areas where either cases or the threat of cases is high, and where movement is restricted, surveillance is tighter, and essentials are hand-delivered. But experts say that a map of containment zones already earmarked by the government is not the same as citywide locality data.

DELHI Updated: May 07, 2020 03:20 IST

trending

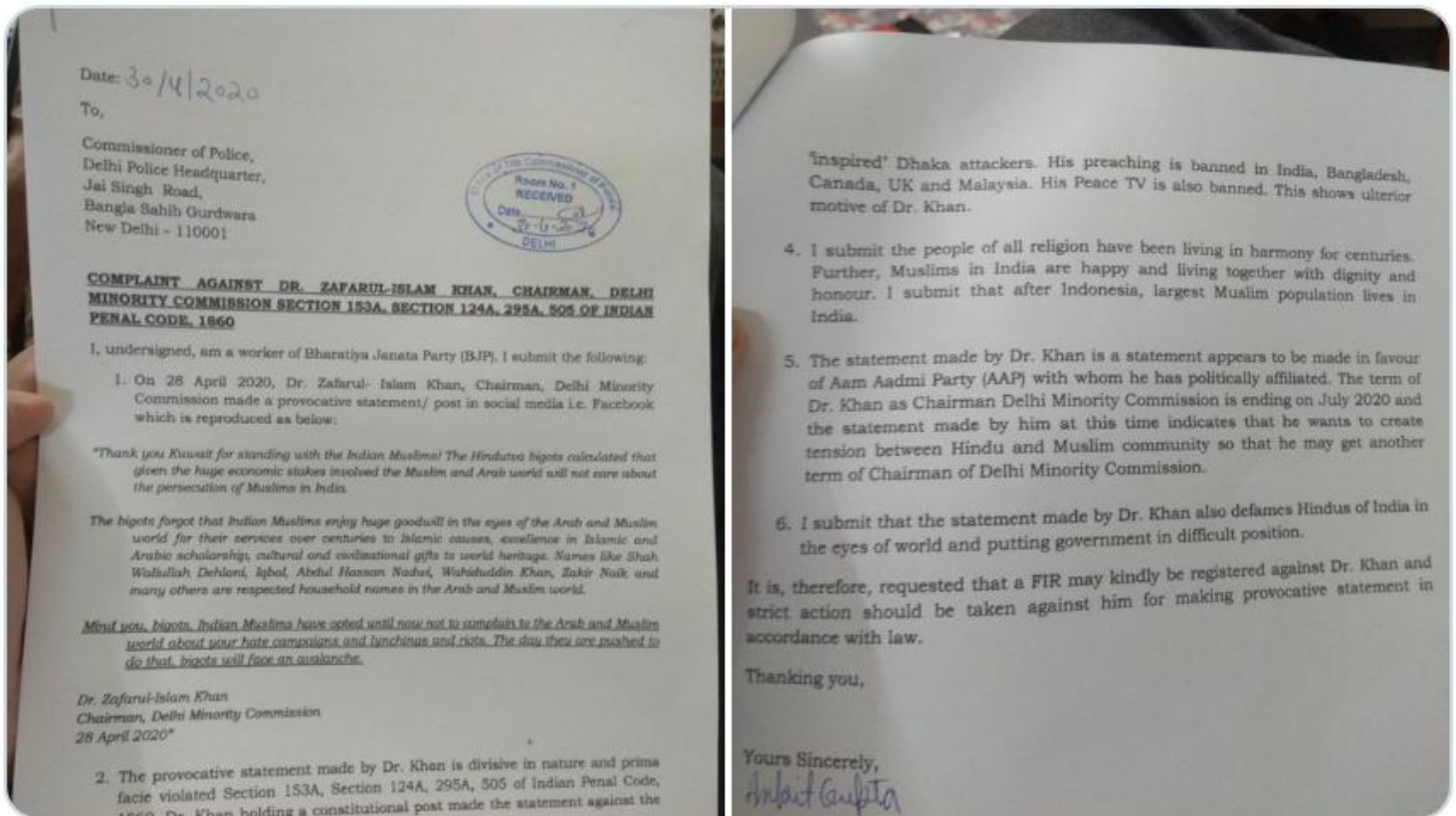
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- Pulwama encour



Ankit Gupta
@AnkitGupta0



Filed a complaint against Dr Zafarul-Islam, Chairman, Delhi Minority Commission for making a provocative statement.



Siddharthan and 8 others

4:33 PM · Apr 30, 2020 · [Twitter for Android](#)

3.1K Retweets 10.4K Likes

Date: 30/4/2020

To,

Commissioner of Police,
Delhi Police Headquarter,
Jai Singh Road,
Bangla Sahib Gurdwara
New Delhi - 110001



COMPLAINT AGAINST DR. ZAFARUL-ISLAM KHAN, CHAIRMAN, DELHI MINORITY COMMISSION SECTION 153A, SECTION 124A, 295A, 505 OF INDIAN PENAL CODE, 1860

I, undersigned, am a worker of Bharatiya Janata Party (BJP). I submit the following:

1. On 28 April 2020, Dr. Zafarul- Islam Khan, Chairman, Delhi Minority Commission made a provocative statement/ post in social media i.e. Facebook which is reproduced as below:

"Thank you Kuwait for standing with the Indian Muslims! The Hindutva bigots calculated that given the huge economic stakes involved the Muslim and Arab world will not care about the persecution of Muslims in India.

The bigots forgot that Indian Muslims enjoy huge goodwill in the eyes of the Arab and Muslim world for their services over centuries to Islamic causes, excellence in Islamic and Arabic scholarship, cultural and civilizational gifts to world heritage. Names like Shah Waliullah Dehlani, Iqbal, Abdul Hassan Nadwi, Wahiduddin Khan, Zakir Naik and many others are respected household names in the Arab and Muslim world.

Mind you, bigots, Indian Muslims have opted until now not to complain to the Arab and Muslim world about your hate campaigns and lynchings and riots. The day they are pushed to do that, bigots will face an avalanche.

*Dr. Zafarul-Islam Khan
Chairman, Delhi Minority Commission
28 April 2020"*

2. The provocative statement made by Dr. Khan is divisive in nature and prima facie violated Section 153A, Section 124A, 295A, 505 of Indian Penal Code, 1860. Dr. Khan holding a constitutional post made the statement against the interest of India.
3. In his statement, he has praised Zakir Naik against whom several criminal cases are pending in Indian Courts for committing various offences by him and his affiliated organizations. Zakir Naik is currently absconding from India

'inspired' Dhaka attackers. His preaching is banned in India, Bangladesh, Canada, UK and Malaysia. His Peace TV is also banned. This shows ulterior motive of Dr. Khan.

4. I submit the people of all religion have been living in harmony for centuries. Further, Muslims in India are happy and living together with dignity and honour. I submit that after Indonesia, largest Muslim population lives in India.
5. The statement made by Dr. Khan is a statement appears to be made in favour of Aam Aadmi Party (AAP) with whom he has politically affiliated. The term of Dr. Khan as Chairman Delhi Minority Commission is ending on July 2020 and the statement made by him at this time indicates that he wants to create tension between Hindu and Muslim community so that he may get another term of Chairman of Delhi Minority Commission.
6. I submit that the statement made by Dr. Khan also defames Hindus of India in the eyes of world and putting government in difficult position.

It is, therefore, requested that a FIR may kindly be registered against Dr. Khan and strict action should be taken against him for making provocative statement in accordance with law.

Thanking you,

Yours Sincerely,

Ankit Gupta

6 May 2020

6 May 2020

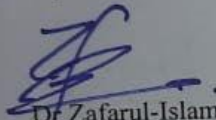
To Cyber Cell
Dwarka, New Delhi

I am a public servant and head of a statutory body, Delhi Minorities Commission.

I am a senior citizen of 72 years of age and a heart-patient, suffering from old-age related physical illnesses that make me extremely vulnerable to the Covid-19 coronavirus. I suffer from hyper tension among other ailments.

The law as per Section 160 CrPC mandates that the police cannot compel attendance of a person above 65 years age at any place other his/her residence for the purpose of investigation and interrogation. You are required as per law to question / interrogate me only at my residence and you cannot compel me to go to any police station.

During these times of lockdown due to Covid19, it is risky for my health to report to your office. I am available to answer any questions at my home during day time.



Dr Zafarul-Islam Khan
Chairman, Delhi Minorities Commission
Home address: D-84 Abul Fazal Enclave, part 1
Jamia Nagar, New Delhi 110 025



Annexure A-11

Vrinda Grover <vrindagrover@gmail.com>

Advance Service of Bail Application Dr.Zafarul-Islam Khan vs GNCTD Thr P.S.Special Cell (S.B.), Lodi Colony, for 12.5.2020

Vrinda Grover <vrindagrover@gmail.com>
To: criminalstandingcounsel@gmail.com

8 May 2020 at 12:00

Please find attached an e copy of a fresh Bail Application titled

Dr.Zafarul-Islam Khan vs GNCT Delhi Through P.S.Special Cell (S.B.), Lodi Colony

You are being served in your capacity as Standing Counsel (Criminal) on behalf of Respondents No. 1 in the Petition.

Kindly take note that the above mentioned Bail Application will be listed before the Hon'ble Court on **12.05.2020**.

Kind Regards,
Vrinda Grover

Vrinda Grover
Advocate
N 14A, Saket
New Delhi - 110017
India
Mobile: +91 9810806181
Phone : +91 11 43151241

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 **Bail Petition Dr Zafarul Islam Khan v GNCTD Through Special Cell.pdf**
4605K

Please Note:Counsel for Respondent No.1 is Mr. Chaitanya Gosain,Advocate,
MobileNo.9999981270
E-mail:criminalstandingcounsel@gmail.com

IN THE HIGH COURT OF DELHI AT NEW DELHI
CrI M.A. _____ of 2020
IN
BAIL APPLICATION NO. _____ OF 2020

In the Matter of:

Dr. ZAFARUL-ISLAM KHAN ... PETITIONER

v.

GOVERNMENT OF NCT OF DELHI

THROUGH P.S. SPECIAL CELL (SB), LODI COLONY

... RESPONDENT

**APPLICATION UNDER SECTION 482 CRPC SEEKING
EXEMPTION FROM FILING NOTARIZED AFFIDAVIT IN VIEW
OF THE EXTENUATING CIRCUMSTANCES AND PUBLIC
LOCK-DOWN DUE TO COVID-19**

MOST RESPECTFULLY SHEWETH:

1. That the present Application under Section 482 of the Code of Criminal Procedure, 1973, is being filed on behalf of the Applicant who is the Petitioner in the accompanying Petition for anticipatory bail.
2. That the averments and grounds mentioned in the accompanying Petition are relied upon and may be read as part and parcel of the present application and the same are not being reiterated herein for the sake of brevity.
3. That all the annexures to the accompanying petition are true copies of their originals.
4. That the present Application is being filed seeking exemption from filing the affidavits to the accompanying Petition, and Applications in

view of the extenuating circumstances, and public lockdown, and urgency in moving the present Petition. The Applicant undertakes to file affidavits, within 7 days of lifting of the nation-wide lock-down, if so called upon.

5. That the present Application is bona-fide and is in the interests of justice, and grave prejudice is likely to be caused in the event that the present Application is not allowed.

PRAYER

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

- a. Exempt the Applicant/ Petitioner from filing affidavits to the accompanying Petition and the present Application; and
- b. Pass such Order(s) as this Hon'ble Court may deem fit in the interests of justice.

PETITIONER

Dr. ZAFARUL-ISLAM KHAN

Through



**Vrinda Grover, Ratna Appnender
and Soutik Banerjee
Advocates
N- 14 A, Saket,
New Delhi - 110017
9810806181
vrindagrover@gmail.com**

**New Delhi
Dated: 08.05.2020**

IN THE HIGH COURT OF DELHI AT NEW DELHI

BAIL APPLICATION NO. OF 2020

In the Matter of:

Dr. ZAFARUL-ISLAM KHAN

... PETITIONER

v.

GOVERNMENT OF NCT OF DELHI

THROUGH P.S. SPECIAL CELL (SB), LODI COLONY

... RESPONDENT

COURT FEES UNDERTAKING

The Counsel for the Petitioner, under instructions from the Petitioner, in view of the Office Order No. R-3/ RG/DHC/2020 dated 04.04.2020 passed by this Hon'ble Court, hereby undertakes to pay the requisite Court Fee for the present writ petition within 72 hours of the resumption of regular functioning by this Hon'ble Court.



**Vrinda Grover, Ratna Appender
and Soutik Banerjee
Advocates
N- 14 A, Saket,
New Delhi - 110017
9810806181
vrindagrover@gmail.com**

New Delhi**Dated: 08.05.2020**



The Delhi Minorities Commission Act,1999

Act 1 of 2000

Keyword(s):

Commission, Chairperson, Minority Community

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LAW, JUSTICE & LEGISLATIVE AFFAIRS DEPARTMENT**NOTIFICATION**

Delhi, the 8th February, 2000

No.F-21(1)9/99-LAS-11/To/30.-The Act of the Legislative Assembly received the Assent of the Lieutenant Governor of Delhi on 7-2-2000 And is hereby Published for general information

The Delhi Minorities Commission Act,1999 (Delhi Act No.1 of 2000)

(As Passed by the Legislative Assembly of the National Capital Territory of Delhi on 24th December 1999).

An act to provided for the establishment and functioning of a Minorities Commission to safeguard the rights and interests of the Minority communities in the National Capital Territory of Delhi and for matters connected therewith or incidental there to.

BE it enacted by the Legislative Assembly of the National Capital Territory of Delhi in the fifth year of the Republic of India as follows:-

CHAPTER 1**PRELIMINARY****1. Short title, extent and commencement**

1. This Act may be called the Delhi Minorities Commission Act, 1999.
2. It extends to the National Capital Territory of Delhi .
3. It shall come into force on such date as the Government may, by notification in the official Gazette, appoint.

2. Definitions

In this Act , unless the context otherwise requires :-

- (a) “Commission” means the Delhi Minorities Commission constituted under section 3 of this Act;
- (b) “Chairperson” means the Chairperson of the Delhi Minorities Commission appointed under sub section (2)of Section 3 of this Act;
- (c) “ Delhi “ means the National Capital Territory of Delhi;

- (d) “Government “ means the Lieutenant Governor referred to in article 239 AA of the Constitution;
- (e) “Lieutenant Governor” means the Lieutenant Governor of the National Capital Territory of Delhi appointed by the President under article 239 of the Constitution;
- (f) “Member” means a member of the Commission;
- (g) “Minority Community” for the purpose of this Act, means a Community notified as such by the Central Government as per provisions of the National Commission for Minorities Act, 1992;
- (h) “prescribed” means prescribed by the rules made under this Act;

CHAPTER II

THE DELHI MIORITIES COMMISSION

3. Constitution of the Commission

1. As soon as may be after the commencement of this Act, the Government shall constitute a body to be called the Delhi Minorities Commission to exercise the powers conferred on and to perform the function assigned to it, under this Act.
2. The Commission shall consist of a Chairperson and Two members to be nominated by the Government from amongst persons of eminence, ability and integrity belonging to the minority communities of Delhi who may be full time or part time .

4. Term of office and conditions of service of Chairperson and Members

(1) The Chairperson or a Member shall hold office for a term of three years from the date he assumes office and be eligible for reappointment for one more term.

(2) The Chairperson or a Member may resign from his office in writing under his signature addressed to the Government .

(3) The Chairperson and Members shall be entitled to such salary, allowances, status and other facilities as may be prescribed.

(4) The Government shall remove a person from the post of Chairperson or Member referred to in sub-clause(2) if that person-

- (a) becomes an undercharged insolvent;

- (b) is convicted and sentenced to imprisonment for an offence which in the opinion of the Central Government involves moral turpitude;
- (c) become of unsound mind and stands so declared by a competent court;
- (d) refuses to act or becomes incapable of acting;
- (e) is, without obtaining leave of absences from the Commission, absent from three consecutive meetings of the Commission; or
- (f) has, in the opinion of the Government of National Capital Territory, so abused the position of Chairperson, or Member, as to render that person's continuance in office detrimental to the interests of Minorities or the public interest: Provided that no person shall be removed under this clause until that person has been given a reasonable opportunity of being heard in the matter.

(5) Any vacancy occurring in the Commission shall be filled as soon as may be by the Government for the un- expired part or the term of the out- going member

5. Secretary of the Commission

1. The Secretary of the Commission shall be appointed by the Government in consultation with the Chairperson, and he shall not be below the rank of a Secretary to the Government.
2. The Secretary shall look after the day-to-day administration and shall work as directed by the Commission.
3. The Secretary shall cause the accounts of the commission to be maintained and shall discharge the duties cast on him by or under this Act.
4. The Secretary will be entitled to such salary and allowances as may be prescribed.

6. Staff of the Commission

1. The Government shall provide such staff, amenities and facilities to the Commission as may be determined by the government for the effective functioning of the commission.
2. The administrative expenses of the Commission, including the salaries, allowances, pensions and other amounts payable to the Secretary, officers and staff of the commission shall be paid as prescribed and paid out of the grants referred to in sub-section(2) of section 11 of this Act.

7. Procedure to be regulated by the Commission

The Commission shall regulate its own procedure with prior approval of the Government.

8. Authentication of orders and decisions of the Commission

All the orders and decisions of the Commission shall be authenticated by the secretary, or any other officer of the commission duly authorized by the chairperson.

9. Vacancies, etc. not to invalidate proceedings of the commission

No act, decision or proceeding of the commission shall be called in question or held invalid merely on the ground of any vacancy or defect in the constitution of the commission.



CHAPTER III

FUNCTIONS AND POWERS OF THE COMMISSION

8. Functions of the Commission

(1) The Commission shall perform all or any of the following functions:-

- (a) examine the working of various safeguards provided in the Constitution of India or laws enacted by Parliament and the laws passed by the Legislative Assembly of Delhi for the protection of the Minority Communities, and to make recommendations to ensure their effective implementation;
- (b) monitor the implementation of the policies and schemes of the government for the welfare of Minority communities;
- (c) conduct studies, research and analysis in order to make recommendations to promote the socio-economic enlistment of the Minority Communities and facilitate their optimum participation in nation-building.
- (d) Cause studies to be undertaken into problems arising out of any discrimination against Minority Communities and recommend measures for their solutions;
- (e) hold seminars, debates and discussions on problems affecting the Minority Communities of Delhi to raise public awareness;
- (f) Assess the representation of minority Communities in the services of the government, semi-Government bodies and govt. Undertakings, Municipal Corporation of Delhi, Delhi Development Authority, New Delhi Municipal Council, other local authorities and in case of inadequate representation, to recommended remedial measures;

- (g) Make recommendations for ensuring, maintaining and promoting communal harmony in Delhi;
- (h) Look into specific complaints regarding the deprivation of the rights and safeguards of the Minority communities and to take up such matters with the appropriate authorities for necessary action;
- (i) Serve as a Clearing House for information in respect of the Minority Communities in Delhi;
- (j) Deal with any other matter pertaining to the welfare of the Minority communities which may be referred to it by the Government.

(2) Annual report

The Commission shall prepare every year an annual Report giving a true and full account of its activities during the year, along with its recommendations, and copies thereof shall be forwarded to the Government. The government shall without delay cause the same to be laid before the House of the Legislative Assembly of Delhi along with a report setting out the action taken, or proposed to be taken, on the recommendations and the reasons for non-acceptance, of such recommendations.

(3) Special report

The commission may submit to the Government special report on any matter of public importance pertaining to the interest of the Minority Communities.

(4) Right to be heard

In case of non- acceptance of any recommendations, the Commission shall have the right to be heard by the Minister –in-charge.

(5) Quasi-judicial powers

The Commission shall have, in carrying out its Function, the powers of a civil court trying a suit and, in particular, in respect of the following matters, namely:-

1. summoning and enforcing the attendance of any person and examining him on oath;
2. requiring the discovery and production of any document;
3. receiving evidence on affidavits;
4. requisitioning any public or institutional record, or copy thereof, from any office or institution of the government.

(6) Power to utilize services of agencies

The commission may, for the purposes of conducting any examination under this Act, utilize the services of any agency of the government with the prior approval of the government.

(7) Protection for statement made to the commission

No statement made by a person to the /commission in the course of giving evidence shall be used against him any court proceeding except for perjury.



CHAPTER IV

FINANCE, ACCOUNTS AND AUDIT

11. Budget and grants by the Government

1. The Commission shall prepare every year a budget estimate of its income and expenditure for the financial year and shall forward it to the Government.
2. The government shall, after due appropriation made by the Legislature of Delhi in this behalf, pay to the Commission by way of grants such sums of money as are adequate for carrying out the purposes of this Act.
3. The Commission may spend such sums out of the grants as it think fit for performing its functions under this Act, or incidental thereto

12. Accounts and Audit

1. The accounts of the income and expenditure of the Commission shall be kept in accordance with the rules.
2. The Commission shall prepare an annual statement of accounts in the prescribed form.
3. The accounts of the Commission shall be audited annually by the auditors appointed by the Comptroller and Auditor General of India.
4. The auditors shall have access to all the accounts and other records of the Commission.
5. The Commission shall send a copy of the annual statement of accounts together with a copy of the audit report to the government to be published in the prescribed manner.



CHAPTER V

MISCELLANEOUS

13. Chairperson, Members and staff of commission to be public servants

The Chairperson, Members and officers authorized by the commission to perform functions under this Act, shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code, 1860 (45) of 1860).

14. Protection of action taken in good faith

No civil, criminal or other legal proceeding shall lie against the chairperson, embers or officers performing functions under this Act. Or under authority of the Commission, in respect of anything which is done in good faith or intended to be done in pursuance of this Act by or under the authority of the Commission.

15. Establishment of library and cell

The Government may establish a Library, an information Cell a Research Cell and such other Cells as may be recommended by the Commission.

16. Power to make rules

1. The Government may, by notification in the official Gazette, make rules for carrying out the provisions of this Act.
2. In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters namely:
 - (a) Salary, allowances, status and other facilities to which the Chairperson or a Member shall be entitled;
 - (b) Salary and allowances payable to the Secretary;
 - (c) Prescribing of the administrative expenses of the Commission, including the salaries, allowances, pensions and other amounts payable to the Secretary, officers and staff of the Commission;
 - (d) Making of rules in accordance with which the accounts of the income and expenditure of the Commission shall be kept;
 - (e) Prescription of the form in which the annual statement of accounts of the Commission shall be prepared.
 - (f) Prescribing the manner of publication of the annual statement of accounts of the Commission together with a copy of the audit report by the Government.
 - (g) Any other matter which is required to be or may be prescribed

(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before the House of the Legislative Assembly of Delhi, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the sessions immediately following the session or the successive aforesaid, the House agrees in making any modification in the rule, or the House agrees that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, and the case may be without prejudice to the validity of anything previously done under that rule.

17. Repeal and saving

(1) the Resolution made vide No F. 10/3/98- HP/Estt./MC/2527 dated 20-05-1999 by the Government constituting the Delhi Minorities (Provisional) Commission (hereinafter referred to as “the former Commission”) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken by the Resolution referred to in sub-section(1) shall be deemed to have been done or taken under this Act as of the provisions of this Act were in force at all material times.

18. Power to remove difficulties

If any difficulty arises in giving effect to the provisions of this Act, the Government may, in consultation with the Commission, and by order published in the official gazette, make such provisions not inconsistent with the provisions of this Act, as may be necessary of removing the difficulty.

Provided that no such order shall be made after the expiry of a period of two years from the date of the commencement of this Act.

Every order made under this Act shall, as soon as, may be after it is made, be laid before the House of the Legislative Assembly of Delhi.

VAKALATNAMA**IN THE HON'BLE HIGH COURT OF DELHI AT NEW DELHI**

BAIL APPLICATION NO. _____ JURISDICTION of 2020

In re: Dr. Zafarul-Islam Khan

...Petitioner

V E R S U S

GNCTD Through Special Cell(SB)

...Respondents

KNOW ALL to whom these present shall come that I, Dr. Zafarul-Islam Khan, S/o Maulana Wahiduddin Khan, R/o 84 Abul fazal Enclave, Part 1, Jamia Nagar, New Delhi - 110025

the above named Petitioner do hereby appoint:

RATNA APPNENDER
D/207/2014
9582486431

VRINDA GROVER
D/42/89
9810806181
N-14 A, SAKET
NEW DELHI-110017

SOUTIK BANERJEE
D/3916/2017
8527075320

(herein after called the advocate/s) to be my/our Advocate in the above noted case authorizing them :-

To act, appear and plead in the above-noted case in this Court or in any other Court in which the same may be tried or heard and also in the appellate Court including High Court subject to payment of fees separately for each Court by me/ us.

To sign, file verify and present pleadings, appeals cross objections or petitions for execution review, revision, withdrawal, compromise or other petitions or affidavits or other documents as may be deemed necessary or proper for the prosecution of the said case in all its stages.

To file and take back documents to admit and/or deny the documents of opposite party.

To withdraw or compromise the said case or submit to arbitration any differences or disputes that may arise touching or in any manner relating to the said case.

To take execution proceedings.

To deposit, draw and receive money, cheques, cash and grant receipts thereof and to do all other acts and things which may be necessary to be done for the progress and in the course of the prosecution of the said case.

To appoint and instruct any other Legal Practitioner, authorizing him to exercise the power and authority hereby conferred upon the Advocate whenever she may think it to do so and to sign the Power of Attorney on our behalf.

And I/We the undersigned do hereby agree to ratify and confirm all acts done by the Advocate or his substitute in the matter as my/our own acts, as if done by me/us to all intents and purposes.

And I/We undertake that I / we or my /our duly authorized agent would appear in the Court on all hearings and will inform the Advocates for appearance when the case is called.

And I /we undersigned do hereby agree not to hold the advocate or his substitute responsible for the result of the said case. The adjournment costs whenever ordered by the Court shall be of the Advocate which she shall receive and retain herself.

And I /we the undersigned do hereby agree that in the event of the whole or part of the fee agreed by me/us to be paid to the Advocate remaining unpaid she shall be entitled to withdraw from the prosecution of the said case until the same is paid up. The fee settled is only for the above case and above Court.

I/We hereby agree that once the fee is paid. I /we will not be entitled for the refund of the same in any case whatsoever. If the case lasts for more than three years, the advocate shall be entitled for additional fee equivalent to half of the agreed fee for every addition three years or part thereof.

IN WITNESS WHEREOF I/We do hereunto set my /our hand to these presents the contents of which have been understood by me/us on 0 4 t h of M a y , 2020.

Accepted subject to the terms of fees.

The Client's signature is identified by the advocates signing below:





Advocates


 Client