

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION
(PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA
R/W. ORDER XXXVIII OF THE SUPREME COURT RULES, 2013).**

PUBLIC INTEREST LITIGATION (CIVIL) NO. _____ 2022

IN THE MATTER OF:-

Ghanshyam Upadhyay

...Petitioner

Versus-

The High Court, Bombay and Anr.

...Respondents

OFFICE REPORT ON LIMITATION

1. The Petition is/are within time.
2. The Petition is barred by time and there is delay of No days in filing the same against order dated and Application for Condonation of ___ day's delay has been filed.
3. There is a delay of ___ days in refilling the Petition and Application for condonation of _____ days delay in refilling has been filed.

(SECTION OFFICER)

Filed on 14.01.2022

PROFORMA FOR FIRST LISTING

SECTION – IIA

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

Act: (Title)

Section: Article 32

Central Rule: (National Investigation Act 2008 and Unlawful

Activities (prevention) Act 1967

Rule No(s):

State Act: (Title)

Section: (Title)

State State Rule

(Title)

Rule No. (s)

Impugned Interim Order: (Date)

Impugned Final Order/Decree: (Date):

High Court:

Name of Judges:

Tribunal/Authority: (Name)

1. Nature of Matter: Civil Criminal

2. (a) Petitioner/Appellant: Ghanshyam Upadhyay
(b) e-mail ID: NA
(c) Mobile Phone Number:

3. (a) Respondent No. The High Court, Bombay and Anr
(b) e-mail ID:
(c) Mobile Phone No.

4. (a) Main category classification:
(b) Sub classification:

5. Not to be listed before:

6. Similar/Pending matter:

7. Criminal matters:
 - a) Whether accused/convict has surrendered: Y No.
 - b) FIR/Complaint No.:
 - c) Police Station:
 - d) Sentence undergone:

8. Land Acquisition Matters:

a) Date of section 4 notification:

b) Date of section 6 notification:

c) Date of section 17 notification:

9. Tax Matters: State the tax effect:

10. Special Category (first petitioner/appellant only):

Senior citizen SC/ST Woman Child

Disabled Legal Aid Case Incustody

11. Vehicle number (in case of Motor Accident Claim matters):

Dated : 14.01.2022

Ghanshyam Upadhyay
(Petitioner-in-Person)

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PAPER BOOK

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THE PETITIONER IN PERSON: GHANSHYAM UPADHYAY

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SYNOPSIS

In Gita Lord Shri Krishna said to Arjun: “यद्यदाचरति श्रेष्ठस्तत्तदेवेतरो जनः।
स यत्प्रमाणं कुरुते लोकस्तदनुवर्तते॥३.२१॥ (yadyadaacharati
shreshthastattadevetaro janaha /sa yatpramaanam kurute lokastadanuvartate)
which means Whatever an ideal person does, so do other people (imitate him).
Whatever standard he sets, other people follow.

The present Public Interest Litigation petition under Article 32 of the Constitution of India is being filed in this Hon'ble Court inter alia seeking to quash and set aside the Standard Operating Procedure (SOP), issued by the Registrar General, High Court of Bombay, after examining the legality, validity and/or propriety of the same since the said SOP has been issued, ignoring the fact that the courts can be made functional through the process of video conferencing/virtual hearing. The petition also seeks the laying down of guidelines for functioning of the courts in the State of Maharashtra through video conferencing/virtual hearing in such a manner and/or procedure as this Hon'ble Court may deem fit and proper but avoiding physical appearance of lawyers in the State of Maharashtra unless and until it is so warranted and/or imperative but at the same time ensuring that functioning hours of the courts are not curtailed/compromised, as has been done by the impugned SOPs.

LIST OF DATES

Date	Particulars
10.01.2022	A Standard Operating Procedure ('SOP') was issued under the signature of Shri Sachin. B. Bhansali, Prothonotary and Sr.Master, High Court (O.S.), Bombay and V.R. Kachare, Registrar (Judl-I) High Court (A.S.) Bombay which is meant for functioning of the High Court, Bombay at its Principal Seat, situated at Bombay.
	By the aforesaid SOP, the Principal Seat of the High Court has been made functional only for three hours i.e. from 12 noon to 3 p.m. through VC and the said SOP has been made applicable from 11.01.2022 to 28.01.2022 for the time being.
	On account of the impugned SOP, the Principal Seat of High Court, Bombay has been functioning only for the namesake and with the result, litigants and Advocates concerned have been facing tremendous hardship and suffering and consequently, their fundamental right are jeopardised and violated which are matter of great concern and of great public importance.
13.01.2022	Hence the present petition.

**PETITION UNDER ARTICLE 32 OF THE
CONSTITUTION OF INDIA SEEKING TO
CHALLENGE THE SOP DATED 10.01.2022
ISSUED BY THE HIGH COURT BOMBAY
AND FURTHER SEEKING TO ENFORCE
VIRTUAL HEARING OF ALL THE
COURTS IN MAHARASHTRA.**

TO,

**THE HON'BLE THE CHIEF JUSTICE OF INDIA
AND HIS COMPANION JUSTICES OF THE
HON'BLE SUPREME COURT OF INDIA;**

**HUMBLE PETITION OF THE
PETITIONER ABOVENAMED;**

MOST RESPECTFULLY SHEWETH;

1. The Petitioner is a citizen of India and domiciled in the State of Maharashtra. The Petitioner is a practicing advocate in the Hon'ble High Court, Bombay and the Hon'ble Supreme Court of India and has been duly enrolled with the Bar Council of Maharashtra and Goa, having registration
While the Respondent No.1 is the High Court, Bombay, the Respondent No. 2 is the State of Maharashtra. The Respondent No. 1 is also 'State' within the meaning of Article 12 of the

2A. The Petitioner by filing the present petition in this Hon'ble Court seeks to challenge the Standard Operating Procedure (hereinafter referred to as 'SOP' for the sake of brevity and convenience) issued under the signature of Shri Sachin. B. Bhansali, Prothonotary and Sr. Master, High Court (O.S., Bombay) and V.R. Kachare, Registrar (Judl-I) High Court (A.S.) Bombay on 10.001.2022 which is meant for functioning of the Principal Seat of the High Court, Bombay. The Petitioner also seeks to challenge SOP dated 03.01.2022, issued by the High Court, Bombay for functioning of subordinate courts of certain districts as more particularly, described therein.

3. The SOP issued by the Hon'ble the Chief Justice and other Hon'ble Judges of the Administrative Committee of the High Court of Bombay seems to have been approved after having taken account of the situation prevalent due to the spread of Coronavirus (Covid-19) and the suggestions received from all concerns. The SOP seeks to lay down the procedure for conducting hearings of matters at the Principal Seat of the High Court, Bombay whereby it is provided that the timing of functioning of the Principal Seat has been restricted and confined only for three hours between the period from 12 noon to 3:00 p.m. and that only for urgent matters. Hereto annexed and marked as **Annexure-'P1'** is the copy of the impugned said SOP dated 10.01.2022.

4. Similarly, another SOP dated 03,01,2022 has been issued by the High Court, Bombay under the signature of Registrar General for functioning of the subordinate courts in the districts of Mumbai, Pune, Raigad, Alibaug and Thane between 11.00 a.m. to 4.00 p.m. with the presence 50% of the staff every day on rotation and the courts have been directed to take remand, bail matters of under-trial prisoners and urgent matters through physical hearing for four hours. The subordinate courts have been further given discretion to hear the matters for recording of evidence, hearing arguments etc. via virtual platform.

It is pertinent to mention that to the best of the knowledge of the Petitioner there is no requisite infrastructures, which are not very difficult and/or even expensive, which are required to hear the matters through virtual platform. It is very shameful that subordinate courts of the financial capital of the country and its adjoining cities named hereinabove, which are considered and believed to be most advanced and forward cities in all respects amongst all the cities of the country, lack infrastructures for hearing the matters on virtual platform, which are very easy and cheap to procure, whereas, in almost every states of the country, all the courts including courts situated in remote areas were found to be function on virtual platform and that too very effectively and the Petitioner as a matter of fact, had attended/participated such hearing in the subordinate of few states situated in rural/remote areas. Hereto annexed and marked as Annexure-‘P2’ is the copy of the impugned SOP dated 03.01.2022.

5. Thus, while impugned SOP dated 03.01.2022 gives discretion to the subordinate courts to conduct hearing of the matters through virtual platform, however, while issuing the said SOP, High Court did not realise and/or take into account the ground level reality that none of the sub-ordinate courts in the state, conducted hearing through virtual platform even during first and second wave of Covid -19 when the situations were more serious and alarming, on the ground that the courts lack necessary infrastructures and trained staff /judicial officers for conducting hearing through virtual platform. As a matter of fact, during first wave the Petitioner himself way back on 06.01.2020 had an occasion to meet the then Principal Judge of the City Civil & Session Court, Bombay Mr. M.W. Chandwani, who is now Registrar General of the High Court Bombay and tried to persuade him to ensure that all the Courts of City Civil and Sessions Court function through virtual platform to avoid risk of the Advocates, Court staffs and Judicial Officers from being infected with Covid-19, as the Petitioner had noticed complete chaos, when the courts were opened

after complete closure/lockdown which was imposed initially, however, the Principal Judge while informed the Petitioner that option is given to the Advocates for virtual hearing but for that purpose concerned Advocate is required to get himself registered and at the same time, the Principal Judge further informed the Petitioner that virtual hearing is not possible on account of lack of necessary infrastructures and trained court staffs and Judicial Officers. When the Petitioner brought to the notice of the Ld. Principal Judge that in the name of infrastructures, only good internet facility is required and conducting virtual court hearing is not something like rocket science which requires prolonged and in-depth training and which in fact can be educated to concerned court staff and judicial officers in few minutes, however, yet, the Ld. Principal Judge opined that server system will not support functioning of so many courts through virtual platform and in the process, he further opined that even lawyers are not ready to have hearing through VC, as according to the Ld. Principal Judge none of lawyers ever applied for virtual hearing. Consequently, when the Petitioner spoke to other lawyers about the same, many of them replied that they tried to argue their matters through virtual platform but of no avail because of poor network services of the courts at City Civil & Session Court, Bombay. Thus, no virtual hearing was ever conducted during first and second wave. While the present petition was finalised, the Petitioner came to know that now few courts/judges of the City Civil & Session Court, Bombay has started taking some matters thorough virtual platform, however, still most of the courts/judges prefer to conduct physical hearing only.

6. After issuance of impugned SOPs, hearing of matters at the Principal Seat of the Bombay High Court and in the subordinate courts in the aforesaid said districts have reduced drastically and almost at standstill and with the result, litigants and advocates are made suffer. It has been experience of the Petitioner

that on the basis of the impugned SOP dated 03.01.2022, many judges in the subordinate courts have been expressing complete insensitiveness/insensibility and perhaps on account of they being worried for their own safety from deadly virus and thus, being not interested in hearing the matter and making every attempt to avoid hearing. Some of the advocates practicing in District Court at Thane have informed the Petitioner that during first wave there was a Session/District Judge in Thane District/ Session Court by name Shri. R.R.Vaishnav (now retired recently), who was so much scared of deadly virus that he even would not allow the advocates to enter in his court room and instead, he would direct/insist the advocates to argue the matter/address him by remaining just at the entrance/door of his court room and advocates had been dutifully complying with such direction due to apprehension of offending him if they raised objection to such a practice.

7. While precautionary measures taken by the High Court to control the new variant from being spread is appreciable by making its Principal Seat functional completely through virtual platform but at the same time, reducing the court timing for hearing the matter only for three hours is certainly unreasonable and unrealistic, more so when all the courts can function completely and effectively through virtual platform. While issuing the impugned SOP, the High Court completely overlooked the immense suffering of large number of litigants and Advocates and further fact that by now almost all the concerned court staffs, Hon'ble Judges and Advocates have become well equipped with techniques and knowhow with regard to virtual hearing. As a matter of fact, virtual hearing has been proved to be very effective and advantageous for all concerns and that being the case, there is no justification for reducing the court hours for hearing the matters only for three hours. The reasons for reducing the court timing by impugned SOP seem to be to reduce the risk of all concerns being

infected with new variants, however, it has been forgotten that if all the courts are made functional even for three hours in a day, then also such risk is enviable. Even otherwise, new variant has been found to be having very mild effects and most of the people who are infected with new variant get well soon by being at home and by taking normal medicines which are available for treatment. Casualty rate of new variant is negligible.

8. Irrespective of the effect of new variant, the spread thereof can be avoided and reduced just by making all the courts functional only through virtual platforms. As a matter of fact, hearing through virtual platform may result in more disposal of cases and access to justice being made more easy and accessible and even less expensive to all concerns. It cannot be ignored that future seem to be of court hearing through virtual platform only and therefore, instead of making emphasis on virtual hearing, making the same an alternate only, on account of new variant, cannot be said to be applicable and that too by reducing the court hours.
9. It is matter of record and well-known fact that by now almost all the High Courts of the country and even the Hon'ble Supreme Court of India have been conducting hearing full-fledged inasmuch as during complete court hours through virtual platform and therefore, there is no reason and justification as to why the Bombay High Court be made the exception thereto. The Hon'ble Judges on account of their position even otherwise are able to easily maintain social distancing and other precautionary measures and therefore, the risk of they being infected with new variant is lesser than all other concerns. Even in the case of a Judge of High Court and/or a Judicial Officers of a sub-ordinate court being infected, there is all the best facilities available for their treatment, which may not be the case with other concerns and therefore, making the High Court functional only

for three hours is not justifiable at all when there are large numbers of pendency in the Bombay High Court. It is the matter of record that bail application of large numbers under-trial prisoners remain pending in the Bombay High Court for six months to one year and matters are not circulated and even if circulated and listed, they are not heard on account of the same having not reached due to board being heavy and therefore, reducing the court timing for hearing of the matters only for three hours which have been done by the impugned SOP and which is bound to be accumulate the pendency and same are bound to cause further delay in hearing such matters and thereby violating fundamental rights of speedy justice of the large number of litigants which is implicit in Article 21 of the Constitution of India. Huge pendency of matters in the Bombay High Court can visualised from the fact that for last few years and even prior to Covid-19 having emerged, hearing of applications for cancellation of bail and anticipatory bail have become to extinguish and unheard of and almost unknown.

10. In view of the fact that when situations were more alarming and dangerous during first and second wave of Covid-19 than the present one, then also hearing of the matters in the Bombay High Court were made to take place for entire regular court hours and as a matter of fact, most of the Hon'ble Judges of the Bombay High Court used to sit late after court hours which subsequently became a regular practice for my Hon'ble Judges and which in fact, started causing lot of inconvenience and hardship to many Advocates who have some good practise, as on account of most of the Hon'ble Judges of the Bombay High Court sitting late even up-to 8 p.m. and sometimes even thereafter, concerned Advocates who had one or the other matters every day before such Judges who used to sit late after Court hours and their matters being not called out during Court hours, used to

be required to be in the Court room for attending/arguing their matter and with result, they would find difficult to manage with other works such as conferences/meetings with the clients, dictating the matters, preparing the arguments for the next day, which requires lot of reading of case papers, judgments etc. and if that is so, then now there is no reason for the High Court to reduce the court timing only for 3 hours and hence, the impugned SOP deserved to be quashed and set aside and the Hon'ble High Court Bombay needs to be directed/requested by this Hon'ble Court to conduct the hearing through virtual platform for entire court hours and similarly, the Hon'ble High Court Bombay needs to be further directed/and requested to ensure that all the necessary and requisite facilities are made available even to the sub-ordinate courts across the State and the sub-ordinate courts in the State are made functional through virtual platform and e-filing, which only appears to be the future in coming days and therefore, avoiding hearing through virtual platform on account of lack of necessary/requisite infrastructures, is no solution and beneficial.

11. Making lawyers to appear in the crowded courts in the physical form, which can be avoided and is to be avoided at any cost is appreciable, but if the same can be achieved by conducting court proceeding full time through virtual platform, then curtailment of working hours without any corresponding benefit and on the contrary, which are bound to cause immense hardships and suffering to large numbers of litigants and advocates not during existence of impugned SOPs but also even thereafter on account of pendency being accumulated and that being the case, the impugned SOPs being unreasonable, arbitrary and violative of Article 21, are liable to be quashed and set aside by this Hon'ble Court, in exercise of its extraordinary powers vested under Article 32 of the Constitution of India.

12. Almost all the districts and talukas in the State of Maharashtra are connected through internet and all the courts and judicial officers have also been provided with laptops/computers and if there is internet connectivity and the judicial officers have laptops/computers, then making the court functional through video conferencing is certainly not a rocket science. The perception which by and large is sought to be created, whenever it comes to the issue of court proceeding being conducted through video conferencing, is that it requires 'infrastructure' which is really ridiculous in as much as all that is required for court proceeding being conducted through virtual platform, is internet connectivity and a laptop/computer with the concerned judicial officer and then the courts can function smoothly and that too by minimizing/reducing the risk of spread of deadly virus and therefore, there is no justification in curtailing the duration of hearing/functioning of courts in the manner in which the High Court has done by the impugned SOPs.
13. Incidentally, the Petitioner recently was instrumental and part of a programme organised by lawyers – a unique programme rather viz. musical concert of lawyers which was organised on 24th May, 2020 in which lawyers from parts of the country exhibited their singing/musical skill and the programme went on for nearly four hours, without interruption. If a musical concert of lawyers could be organised by someone sitting in a place like Lonavala which is a hill station and the programme can run for nearly four hours uninterrupted and the video record thereof is also available in the social media and which can certainly be ascertained, then there is no reason as to why the courts cannot function through video conferencing.

14. The judicial officers in the State of Maharashtra have been provided with internet connectivity and/or computers/laptop for a fairly long time now which would mean that such technology is not something very new and unknown to them. The judicial officers, thus, in the State of Maharashtra are well acquainted and accustomed with the use of such technology and therefore, there is no reason as to why the State of Maharashtra and/or subordinate courts in the State of Maharashtra cannot take recourse to virtual courts and/or argument through video conferencing, instead of expecting the lawyers to come in courts in large numbers and thereby risking their lives and in the process getting infected with Covid-19. In fact for the new entrants in the services of sub-ordinate judiciary in Maharashtra, the induction training programme devised by the High Court includes topics relating to computerisation and digitalization of judicial system.
15. It is matter of common knowledge and ground level reality that law enforcing agencies, may it be police machineries or other agencies under the different statues, have become brazenly corrupt and statutory powers vested with those law enforcing agencies are used by their concerned officers for extortion and indulging in corruption and in that event the aggrieved persons in a given cases, are left with no option than to approach the High Court to seek justice and now on account of curtailment of court timing/hours at the Principal Seat of the Bombay High Court is causing great hardship and suffering to such litigants. A client of the Petitioner who was literally kidnaped by Police Officers under the guise of investigations and then was subjected to extortion in violation of all the existing laws on arrest, investigation etc. ultimately succumbed to the illegal demand of the parity concerned merely on account of being under impression and belief that due to impugned SOPs, his matters would not be taken up for hearing

soon and the same may take months together and till that time he would be required to remain in jail, which is highly overcrowded and has become hub of Covid-19. It is a matter of common knowledge and experience that many a times, fundamental rights of life, liberty and other legal rights of citizenry are trampled upon by corrupt and unethical officers of law enforcing agencies when courts are on vacations and the said situations are utilized by them to coerces the concerned persons to submit to the illegal demands of such corrupt officers and/ are parties interested in the matters. Thus, the impugned SOPs have cascading effect on the life, liberty and properties of large number of litigants and therefore, the same deserve to be quashed and set aside by this Hon'ble Court.

16. In a situation like this in which the country is heading so far as Covid-19 is concerned, the administrative decision of the Hon'ble High Court of Bombay about commencing functioning of subordinate judiciary without video conferencing is certainly required to be reviewed. The current situation poses a grave danger for the lives of a large population of India as well as the State of Maharashtra and more particularly the members of the legal fraternity who do not enjoy any basic social protection in terms of medical facilities and/or any other facilities. Barring a few lawyers in the State of Maharashtra, the financial condition of a large number of lawyers is not something of which one can be proud of and in a situation like this, the impugned SOP is likely to endanger the lives of a large number of lawyers in the State of Maharashtra and which can certainly be avoided if a practical and pragmatic approach briefly mentioned and set out hereinabove is adhered to and/or taken recourse to.
17. With due respect to the High Court Bombay, impugned SOPs demonstrate lack of required sensitivity towards suffering of large numbers of litigants

and even advocates and their nears and dears and the same also is violative of Article 14 of the Constitution, in as much as while all the organs of the State are being made to function full time, however, judiciary of the State is made exception thereto despite it being the last and best guardians and saviours of the life, liberty and property of the citizenry within the State, when such rights are trampled upon at the hands of the wrongdoers. The Petitioner has absolutely no personal interest in the matter as he could afford to suffer the onslaught of lockdown even if the lockdown is imposed/extended, however, his concern is purely based on the concern of a large number of lawyers and litigants who are forced to suffer on account of restrictions and limitation imposed by the impugned SOPs and instead of all the courts including subordinate courts in the State being made functional full-fledged through virtual platform and therefore, under these compelling circumstances, he has been rather constrained to approach this Hon'ble Court by filing the present petition by invoking the extraordinary jurisdiction of this Hon'ble Court vested under Article 32 of the Constitution of India.

18. The Petitioner in the facts and circumstances of the case has been left with no other efficacious and/or quick remedy available to him in law than to approach this Hon'ble Court by filing the present petition in this Hon'ble Court as a Public Interest Litigation and seek to espouse the cause of large number of helpless and hapless litigants/advocates and their nears and dears.
19. In the given scenario wherein not only the nation but also entire world appear to be destined to "live with Covid-19" and the entire society has accepted the same, it is necessary for every authority to take assistance from technology wherever possible. The judicial proceedings are ones that

are best suited for setting an ideal to the common people as to how “social/physical distancing” can be achieved, without one’s works, vocation, business and profession being compromised. Judiciary is one of the three pillars of democracy. When rallies for General Elections/ Assembly Election can be held and in fact, are being held through “virtual platforms”, there is absolutely no reason as to why the court proceedings cannot be conducted full-fledged through virtual platforms.

20. The issue raised in the petition involves “right to life” that includes a right to speedy justice and the same time, safeguard against disease/pandemic. It is humbly and respectfully submitted that when administrative decision of any organ of State including the judiciary adversely affects such a right and when such decision is taken arbitrarily, in a casual manner and without application of mind, this Hon’ble Court has jurisdiction and authority to interfere with such decision with a view to protect the fundamental right to life. When all the courts in other parts of the country such as Delhi, Gujarat, U.P., Bihar Punjab, Karnataka etc. can function fully through virtual platform, then there is no reason and justification as to why the principal seat of Bombay High Court and subordinate courts thereto in the State cannot function fully through virtual platforms.
21. There is grave urgency in the matter and if the petition is not heard urgently, the same may be rendered infructuous. The prevailing practice, therefore, which has been set in vogue from 11.01.2022 so far as the High Court is concerned and 03.01.2022 so far as the subordinate courts are concerned is certainly avoidable and the SOPs deserve to be reviewed as it does not address to the issues as discussed hereinabove which ought to have been taken into consideration at the very inception and outset. The prevailing situation briefly mentioned and set out hereinabove, therefore,

is required to be remedied forthwith by staying the execution, implementation and/or effect of the impugned SOPs and instead, the courts at the Principal Seat of Bombay High Court and other subordinate courts be made functional full time through the process of virtual platforms/video conferencing/e-filing.

22. No other petition/application is filed by the Petitioner in this Hon'ble Court challenging impugned SOPs.

Under the circumstances, the Petitioner therefore, most humbly prays:-

- a) that this Hon'ble Court may be pleased to call for the records and papers concerning issuance of Standard Operating Procedure (SOPs), dated 10.01.2022 and 03.01.2022, issued by the High Court, Bombay, being Annexures-'P1' and 'P2' annexed with the petition and after examining the legality, validity and/or propriety of the same, this Hon'ble Court may be further pleased to quash and set-aside the same;;
- b) that this Hon'ble Court may be pleased to direct the High Court, Bombay to ensure that all the courts in the State are made to function full time through virtual platform by laying down guidelines for the same in such manner and/or procedure as the High Court may deem fit and proper with the object of avoiding physical appearance of lawyers/litigants but without compromising/curtailing the court timing/working hours of the courts in the State of Maharashtra,

- c) that pending the hearing and final disposal of the present petition, this Hon'ble Court may be pleased to stay the execution, implementation and/or effect of the impugned SOPs dated 10.01.2022 and 003.01.22022 and issued by the High Court, Bombay, being Annexures-'P1' and 'P2' annexed with the petition;
- d) that interim and ad-interim relief in terms of prayer clause (c) above be granted;
- e) that any other and further order and/or directions be given as in the nature and circumstances of the case may require.

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

Filed By:

GHANSHYAM UPADHYAY
(THE PETITIONER IN PERSON)

FILED ON 14.01.2022

PLACE: MUMBAI;

SETTLED BY:- THE PETITIONER IN PERSON

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

IA NO. _____ OF 2022

IN

**WRIT PETITION (CIVIL) NO.....OF 2022
(PUBLIC INTEREST LITIGATION)**

IN THE MATTER OF:

Ghanshyam Upadhyay

Petitioner

Versus

High Court, Bombay & Anr.

Respondents

AFFIDAVIT

I, Ghanshyam Upadhyay, the Petitioner abovenamed,

do hereby solemnly affirm and state as

under:

1. That I am the Petitioner in person in this case and as such I am well acquainted with the facts of the case. Hence, I am competent to swear this affidavit.
2. That I have read and understood the contents of the accompanying List of Dates 1 to 2 and paragraphs 1 to 22 of the Writ Petition at pages 1 to 20

and state the facts stated therein are true to the best of my knowledge and belief and information based on official and court records.

3. That the annexures annexed with the accompanying Writ Petition are the true copies of their respective originals.
4. That I say that there is no personal gain, private motive or oblique reason in filing the Public Interest Litigation before this Hon'ble Court.

DEPONENT

VERIFICATION

I, above named deponent, do hereby verify that the contents of para no. 1 to 4 of this my Affidavit are true and correct to my personal knowledge and belief and nothing has been concealed therefrom.

Verified at Mumbai on this 14th day of January, 2022.

DEPONENT

Standard Operating Procedure (SOP)
(w.e.f. 10.01.2022)

The Hon'ble the Chief Justice and other Hon'ble Judges of the Hon'ble Administrative Committee, after taking into account the exponential surge in COVID-19 cases (all variants) and the views of stakeholders, have been pleased to put in place the following arrangements in respect to the functioning of subordinate courts situated in judicial districts of **Mumbai, Pune, Raigad-Alibaug and Thane.**

1. All Courts shall continue to function in TWO shifts and to take up remand, bail, matters of under trial prisoners, and urgent matters w.e.f. 10.01.2022. The Judicial working hours will be of 2 hours in each shift i.e. 11.00 a.m. to 1.00 p.m. and 2.00 p.m. to 4.00 p.m. The Office working hours will be 10.30 a.m. to 4.30 p.m. with presence of 50% of the staff everyday by rotation.
2. The Courts may take up other matters e.g. fixed for recording of evidence, hearing of arguments etc., via virtual platform.
3. The Courts may take up the matters physically which are either brought or scheduled for compromise / compounding.
4. In the first shift, preferably, the cases which are fixed for evidence and in the second shift, preferably, the cases which are fixed for Judgment, order or hearing of arguments may be taken up.
5. The Judicial Officers may not pass any adverse order owing to the absence of the advocates, parties, witnesses or accused persons.
6. Only take away orders and parcels services are allowed in the Canteens located within the Court premises.
7. Only those advocates, witnesses, accused persons and party-in-persons whose matters are listed on that day's board or whose presence is required by the Court for any specific purpose like verification etc. will be permitted to have access in the Court building. No one should enter the Court halls unless their matter is called out and shall leave the Court premises as soon as hearing of their case / work is over.

8. The Undertrial Accused shall be allowed to be produced in the Court through Video Conference only.

SAFETY / PRECAUTIONARY MEASURES

1. All persons entering the Court premises shall compulsorily wear face mask covering the nose and mouth (including at the time of arguments or giving evidence) and shall also observe social / physical distancing norms as set out time to time by the Hon'ble High Court, Central Government and State Government regarding precautions to be taken to prevent the spread of COVID-19.
2. Persons who may have symptoms of COVID-19 (all variants) shall not be permitted to enter the Court premises.
3. Bar Rooms, Advocates' Chambers, Bar Library, Canteens, Photocopying Room / Section, shall remain open subject to adherence of all the safety norms. The Bar Associations shall observe all the safety norms and ensure sanitization of the Bar Rooms etc. It shall also be the responsibility of the concerned Bar Association to see that only those advocates whose matters are on board are coming to the Court and given access to the Bar Rooms.
4. It shall be the responsibility of the concerned Bar Association, in coordination with the Bar Council of Maharashtra and Goa, to ensure that due precautions are taken to avoid spread of COVID-19 (all variants).
5. The Principal District and Sessions Judge / Head of the Establishment may take decision at their end about the entry and exit points of the Court premises.
6. One or more officer/s shall be nominated by the PDJ/PJ to oversee the arrangements vis-à-vis adherence of the safety norms, who shall carry out inspection on daily basis.
7. Office bearers of the Bar Council and Bar Associations may issue instructions to all their members to strictly abide by the safety norms.

8. If any advocates or litigants are found violating the above said guidelines, the Principal District Judge / Head of the Establishment shall bring it to the notice of the Bar Council of Maharashtra and Goa and respective Bar Associations under intimation to High Court by e-mail on rg-bhc@nic.in and may take such action as he/she deems fit and proper.
9. In case the situation owing to pandemic is worsened, the Principal District Judge / Head of the Establishment may approach the High Court and seek appropriate directions.
10. This SOP shall remain in force till **28th January 2022**.

Date : 06/01/2022

Sd/-
M.W. Chandwani
(Registrar General)

**Standard Operating Procedure for hearing of matters
through Virtual Mode at Principal Seat, Bombay High Court.**

(w.e.f. 11th January 2022)

IN PARTIAL MODIFICATION TO THE SOP dated 3rd January 2021 for hearing of matters through virtual mode, in order to reduce the physical presence of lawyers and litigants due to the prevailing situation of COVID-19 particularly with the emergence of the Omicron variant and since precautionary measures need to be taken, **IT IS HEREBY NOTIFIED** for the information of the Advocates and the parties appearing in-person that the Hon'ble the Chief Justice has been pleased to issue the following Standard Operating Procedure for hearing the **matters through Virtual mode** at the **Principal Seat, Bombay High Court with effect from 11th January 2022 till 28th January 2022** :

- 1) The Benches will function **between 12.00 noon and 3.00 p.m.** and will take up the matters as per judicial assignment with preference to urgent matters.
- 2) The Benches will take up already published board of 11th January 2022.
- 3) Mentioning for circulation of the matter shall be allowed through virtual mode in urgent cases only with permission of the concerned Bench. It is left to each individual Bench to settle it's board considering the priority in hearing to be given to any particular matter.
- 4) The Advocates shall seek circulation in matters only by filing Praecipe through e-mail on the designated e-mail ID of the concerned Court, given hereinbelow.
- 5) In case of fresh matter, the Advocate shall first file the matter, get stamp/lodging number and then move the Praecipe by mentioning said stamp/lodging number on it.
- 6) Filing of fresh matters will be allowed through e-filing only. However, option of filing of fresh matters physically is permitted till 28th January 2022. The Advocates shall file fresh matters through e-filing by visiting **efiling.ecourts.gov.in** portal.
- 7) E-filing of fresh matters will be allowed for all types of matters.
- 8) The filing of matters through e-filing is illustrated in the SOP dated 22.12.2021. The Advocates shall follow the instructions as given in the SOP for e-filing dated 22.12.2021.
- 9) The Advocates should NOT file their matter through e-mail on the designated e-mail address. Such filing through e-mail will not be taken cognizance of.

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- 10) Filing of Testamentary matters physically will however be allowed notwithstanding clause 5 and 6 above.
- 11) No Praecipe without mentioning number of the matter will be entertained.
- 12) The Advocates shall also serve the Praecipe on the other side in advance.
- 13) All Praecipes should be sent 48 hours (excluding holidays) in advance before proposed listing of the matter. Praecipes received after stipulated time will not be responded to or will not be placed before the Hon'ble Judge. If, the matter is not listed, it is deemed that the Bench has declined circulation of the matter.
- 14) In the Praecipe itself, Advocates shall mention names of maximum three persons with their email ids who would attend the hearing through virtual mode. Similarly, respondents / defendants seeking to enter appearance shall intimate email ids of maximum three persons who would attend the hearing. Please note that only those persons whose email-Ids are intimated to the Registry would be allowed to attend the hearing through virtual mode.
- 15) Advocates shall mention their Bar Council enrolment/registration number and Phone number and email-ID in the Praecipe.
- 16) If the Hon'ble Judge allows the Praecipe, the Registry shall communicate the date and time slot for hearing through virtual mode and shall share the link and PIN of the Video Conference Room with the Advocates concerned. The link and PIN shall be used only for Video Conference of that particular case at the allotted time.
- 17) Pre-requisites for joining software VC based meeting :
 - i) Internet connection of minimum 2 Mbps from any service provider (Broadband/FTTH/4G, etc.)
 - ii) Laptop/Desktop with camera working in Windows (recommended) or any other Operating System. Use of mobile phones for VC is deprecated for all users.
 - iii) The laptop or PC used should ideally be identifiable by the name of the Advocate joining the meeting.
 - iv) It is recommended to make use of Wired Earphone / Headphones with good quality Microphone. Advocates are discouraged from using inbuilt microphone of PC or Laptop.
- 18) In order to join the Video Conference, Advocates should install the required Video Conferencing software on their Computer / Laptop. No technical support for installation will be provided in this regard.
- 19) The Advocates concerned may connect to virtual mode using the link or meeting ID and PIN shared with them. They shall enter the serial number of their matter on the Board as their login Id for their identification.
- 20) Please ensure that your camera is in a stable position and focused at your eye level and there is sufficient light on you. Please do not sit too far from or too close to the camera. On the screen, the face should not be blurred or dark but must be clearly identifiable.

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- 21) To experience a good conference during multi-party hearing, please maintain discipline by speaking one at a time. Please keep your microphone muted and unmute it only when you speak. Only the speaker's microphone should be unmuted at any given time.
- 22) Only the Advocate / duly authorized person shall address the Court. The Registry is authorized to mute/unmute any of the participants.
- 23) A complaint in regard to the quality or audibility of feed, if any shall be communicated on the helpline No. **022-22676751** during the proceeding or immediately after its conclusion failing which no grievance in regard to it shall be entertained thereafter.
- 24) Persons whose presence is not necessary or those who disturb or otherwise impede the smooth conduct of the proceedings or violate the etiquette will be removed without notice or warning. Persons removed will not be able to re-join. No complaint will be entertained against removal.
- 25) The litigants who do not have the means or access to Video Conferencing facilities may use the facility of Video Conferencing through the unit installed in Court Room No. **25 Annex**.
- 26) Recording of the VC court proceeding / hearing in video, audio and / or any other form is strictly prohibited.
- 27) The word 'Advocate' wherever occurs in this SOP, unless the context otherwise requires, shall also include a Party-in-Person.
- 28) Advocates and parties should avoid visiting the Court premises, unless their presence is absolutely required.
- 29) The Bar Associations should discourage the presence of the Advocates in Bar Rooms and of the Advocate Clerks within the Court premises.
- 30) The following mandatory norms to be followed by all the concerned who are permitted to enter the Court premises :
 - i) Wearing of mask at all times.
 - ii) Adherence to all the directions / guidelines / SOPs / Advisories issued by the Government of India and the State Government in respect of COVID-19 protocol.

Dated 10th day of January 2021

By Order,

Sd/-
(Sachin B. Bhansali)
Prothonotary & Sr. Master,
High Court, O.S. Bombay.

Sd/-
(V. R. Kachare)
Registrar (Judl-I),
High Court, A.S., Bombay.

EMAIL – IDs OF THE HON'BLE COURTS**w.e.f. 11th January 2022**

Sr. No.	Court sitting	Email address
1	The Hon'ble The CHIEF JUSTICE AND The Hon'ble Shri Justice M. S. KARNIK	<u>For Appellate Side</u> dbcourt1@gmail.com <u>For Original Side</u> dbcourt1.os@gmail.com
2	The Hon'ble Shri Justice A. A. SAYED AND The Hon'ble Shri Justice ABHAY AHUJA	<u>For Appellate Side</u> dbcourt02@gmail.com <u>For Original Side</u> dbcourt02.os@gmail.com
3	The Hon'ble Shri Justice S. S. SHINDE AND The Hon'ble Shri Justice N. R. BORKAR	<u>For Appellate Side</u> dbcourt3@gmail.com <u>For Original Side</u> dbcourt3.os@gmail.com
4	The Hon'ble Shri Justice P. B. VARALE AND The Hon'ble Shri Justice A. S. KILOR	<u>For Appellate Side</u> dbcourt05@gmail.com <u>For Original Side</u> dbcourt05.os@gmail.com
5	The Hon'ble Shri Justice S. J. KATHAWALLA AND The Hon'ble Shri Justice MILIND N. JADHAV	<u>For Appellate Side</u> dbcourt6@gmail.com <u>For Original Side</u> dbcourt6.os@gmail.com
6	The Hon'ble Shri. Justice R.D. DHANUKA AND The Hon'ble Shri. Justice S. M. MODAK	<u>For Appellate Side</u> dbcourt08@gmail.com <u>For Original Side</u> dbcourt08.os@gmail.com
7	The Hon'ble Shri Justice NITIN JAMDAR AND The Hon'ble Shri Justice AMIT B. BORKAR	<u>For Appellate Side</u> dbcourt11.as@gmail.com <u>For Original Side</u> dbcourt11.os@gmail.com
8	The Hon'ble Shri Justice K. R. SHRIRAM AND The Hon'ble Shri. Justice R. N. LADDHA	<u>For Appellate Side</u> dbcourt7@gmail.com <u>For Original Side</u> dbcourt7.os@gmail.com

9	The Hon'ble Shri Justice G. S. PATEL AND The Hon'ble Shri. Justice MADHAV JAMDAR	<u>For Original Side</u> dbcourt13.os@gmail.com <u>For Appellate side</u> dbcourt13.as@gmail.com
10	The Hon'ble Smt. Justice REVATI MOHITE-DERE	<u>For Appellate Side</u> sbcourt14.as@gmail.com
11	The Hon'ble Shri Justice R.V. GHUGE	<u>For Appellate Side</u> sbcourt20.as@gmail.com <u>For Original Side</u> sbcourt20.os@gmail.com
12	The Hon'ble Shri. Justice NITIN W. SAMBRE	<u>For Appellate Side</u> sbcourt16.as@gmail.com <u>For Original Side</u> sbcourt16.os@gmail.com
13	The Hon'ble Shri. Justice G. S. KULKARNI	<u>For Original side</u> sbcourt31.os@gmail.com
14	The Hon'ble Shri. Justice B.P. COLABAWALLA	<u>For Original side</u> sbcourt17.os@gmail.com
15	The Hon'ble Shri Justice A. K. MENON	<u>For Original Side</u> sbcourt18.os@gmail.com
16	The Hon'ble Shri. Justice C. V. BHADANG	<u>For Appellate Side</u> sbcourt15.as@gmail.com
17	The Hon'ble Shri. Justice P. D. NAIK	<u>For Appellate Side</u> sbcourt21.as@gmail.com
18	The Hon'ble Shri Justice SANDEEP K. SHINDE	<u>For Appellate Side</u> sbcourt23.as@gmail.com
19	The Hon'ble Shri Justice SARANG V. KOTWAL	<u>For Appellate Side</u> sbcourt24.as@gmail.com
20	The Hon'ble Shri Justice RIYAZ I. CHAGLA	<u>For Appellate Side</u> sbcourt32.as@gmail.com <u>For Original Side</u> sbcourt32.os@gmail.com
21	The Hon'ble Shri Justice PRITHVIRAJ K. CHAVAN	<u>For Appellate Side</u> sbcourt25.as@gmail.com
22	The Hon'ble Shri Justice N. J. JAMADAR	<u>For Original Side</u> sbcourt27.os@gmail.com
23	The Hon'ble Shri. Justice V. G. BISHT	<u>For Appellate Side</u> sbcourt22.as@gmail.com <u>For Original Side</u> sbcourt25.os@gmail.com

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

IA NO. _____ OF 2022

IN

**WRIT PETITION (CIVIL) NO.....OF 2022
(PUBLIC INTEREST LITIGATION)**

IN THE MATTER OF:

Ghanshyam Upadhyay

Petitioner

Versus

High Court, Bombay & Anr.

Respondents

APPLICATION FOR INTERIM RELIEF

TO

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

THE HUMBLE APPLICATION

OF

THE PETITIONER

ABOVE NAMED;

MOST RESPECTFULLY SHEWETH:

1. This is an application for grant of interim and ad-interim relief. In the aforesaid petition filed by the petitioner under Article 32 seeking, the Petitioner seeks urgent appropriate reliefs as set out in the petition.

2. That the facts of the case have been fully set out in the writ petition and therefore in order to avoid repetition and duplication thereof the same be made part and parcel of the present application.

3. As can be seen from the facts set out in petition, hearing of the matters at the Principal Seat of the Bombay High Court so also the subordinate courts are now in almost standstill position on account of the issuance of the impugned SOPs by the High Court, Bombay and with the result, large number of litigants/ advocates and their nears and dears are made to suffer immensely.

4. That the applicant therefore submits that in the facts and circumstances of the case, it is not only desirable but also necessary that pending the hearing and final disposal of the present petition, the execution, implementation and effect of the impugned SOPs is stayed and High Court is directed to hear the matters full time through virtual platform. Similarly, this Hon'ble Court would be justified in directing the respondent ensures that even subordinate courts are made functional full time through virtual platform.

5. The applicant most respectfully state and submit that, right to speedy and easy access to justice comes within the perview of fundamental right and since most valuable fundamental rights of the peoples who are the victims of the standstill position with regard to the hearing and functioning courts at the Principal Seat of the High Court, Bombay and also the subordinate courts, which is nothing sort of shirking judicial responsibility and with the result, large number of litigants are being made to suffer immensely and therefore this Hon'ble Court would be justified in granting relief plaid in the stand petition instant application.

P R A Y E R

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

- a) to stay the execution, implementation and/or effect of the impugned SOPs dated 10.01.2022 and 003.01.22022 and issued by the High Court, Bombay, being Annexures-‘P1’ and ‘P2’ annexed with the petition;
- b) to direct the High Court, Bombay to make all the courts at its Principal Seat and the subordinate courts functional full time through virtual platform
- c) d) that interim and ad-interim relief in terms of prayer clauses (a) and (c) above be granted;
- d) pass any other order or direction at this Hon’ble Court may deem fit and proper in the facts and circumstances of the case.

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

FILED BY

GHANSHYAM UPADHYAY, ADVOCATE
PETITIONER IN PERSON

Place: Mumbai

Date: 14.01.2022

**IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION**

IA NO. _____ OF 2022

IN

**WRIT PETITION (CIVIL) NO.....OF 2022
(PUBLIC INTEREST LITIGATION)**

IN THE MATTER OF:

Ghanshyam Upadhyay

Petitioner

Versus

High Court, Bombay & Anr.

Respondents

**APPLICATION FOR SEEKING EXEMPTION FROM FILNG A DULY
AFFIRMED AFFIDAVIT.**

TO

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

THE HUMBLE APPLICATION OF

THE PETITIONER ABOVE

NAMED

MOST RESPECTFULLY SHEWETH:

1. This is an application for seeking interim relief as has been more particular describe in the application filed along with the aforesaid writ petition filed under Article 32 of the Constitution of India.
2. That due to ongoing restriction on account of new variant of Covid-19 lockdown like situation in NCT of Delhi and other parts of the country including the city of Mumbai and Thane where the Petitioner resides/has its office, it is extremely difficult to get the affidavit notarized without facing danger of exposure to the deadly virus.
3. That as such subject application is being moved to pray for fling the application without duly notarized affidavit.
4. That the balance of convenience is in favour of the Applicant.

P R A Y E R

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

- a) grant exemption to file the interim application in the Writ Petition, without a duly notarized affidavit; and
- b) pass any other order or orders as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

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

FILED BY

GHANSHYAM UPADHYAY, ADVOCATE
PETITIONER IN PERSON

Place: Mumbai

Date: 14.01.2022