E-FILING NO - EF-HCK-2026-092726

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

WP(C) No ..... Of Year 2026

152.00 MISC.-OTHER THAN SUBJECTS MENTIONED ELSEWHERE

CHALLENGE AGAINST THE ILLEGAL AND ARBITRARY RESTRICTION OF THE PETITIONER'S FACEBOOK PAGE IN INDIA UNDER SECTION 79(3)(B) OF THE INFORMATION TECHNOLOGY ACT, 2000, WITHOUT FURNISHING THE IMPUGNED ORDER

PETITIONER(S)

1. HYDER ALI K

VS

RESPONDENT(S)

1. UNION OF INDIA
   AND OTHERS

MEMORANDUM OF WRIT PETITION (CIVIL) FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

FILING NATURE : URGENT
FEES PAID & STATUS - 1320 (SUCCESS)
SERVED ON
ASG OF INDIA
GOVERNMENT PLEADER
FILED BY

1. PRASANTH SUGATHAN
2. VARSHA BHASKAR
3. MALAVIKA K.

Sd/-
E-VERIFIED
PRASANTH SUGATHAN [redacted]

BEFORE THE HONOURABLE HIGH COURT OF KERALA AT ERNAKULAM

WP(C) No ..... Of Year 2026

PETITIONER : HYDER ALI K

V/S

RESPONDENT : UNION OF INDIA

INDEX

SL	Title	Description	Page Nos
1	Synopsis	Synopsis	1-2
2	Statement Of Facts	Statement Of Facts	3-32
3	Affidavit 1	Affidavit 1	33
4	Exhibit P1	A true copy of the Home Page of NoCap Website	34-36
5	Exhibit P2	A true copy of the Notification dated 04.04.2024 bearing G.O.(Rt)No.1046/ 2024/ HOME issued by the 2nd respondent	37-38
6	Exhibit P3	A true copy of the In-App Blocking Intimation dated 28-09-2026 received on NoCap's Facebook Page	39
7	Exhibit P4	A true copy of the compilation of monthly earning reports for the duration of 6 months from 1st March 2026 to 31st August 2026 of NoCap's Facebook Page	40-47
8	Exhibit P5	A true copy of the compilation of per post monetisation of NoCap's Facebook Page prior and post Ext P3	48-49
9	Exhibit P6	A true copy of the compilation of monthly earning reports of NoCap's Facebook Page for the duration 28.09.2026 to 20.10.2026	50
10	Exhibit P7	A true copy of the Dashboard of NoCap's Facebook Page	51
11	Exhibit P8	A true copy of posts by Nocap facebook page as of 28th September 2026 and 27th September 2026	52-67
12	Vakalatnama 1	Vakalatnama 1	68

Sd/-

E-VERIFIED

PRASANTH SUGATHAN

[redacted]

BEFORE THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM

(Special Original Jurisdiction)

Writ Petition (Civil) No. …… of 2026

Hyder Ali K …Petitioner

Vs

Union of India & Ors …Respondents

SYNOPSIS

The Petitioner, is a journalist by profession, and the Chief Editor of "NoCap", an independent Malayalam digital media organisation in Kerala which was established on 20th November 2023. The Petitioner, along with his team of 10 people have been covering and disseminating news from areas including global, national and regional politics, culture, art, entertainment, gender, and sports, among others, through NoCap. The Petitioner is aggrieved by the arbitrary, disproportionate and illegal restriction on his right to freedom of speech and expression (Article 19(1)(a)), and freedom of practicing any profession or carrying out occupation (Article 19(1)(g)), resulting from the removal/ disablement of his news organisation – NoCap's Facebook page in India.	
Exhibit P1	NoCap has been operating as a digital news platform for almost 3 years, and is used by the Petitioner to offer a unique take on issues that often challenges mainstream narratives.Through NoCap the petitioner has been covering and disseminating news from areas including global, national and regional politics, culture, art, entertainment, gender, and sports, among other
Exhibit P2 04-04-2024	The 4th Respondent is the Nodal Officer of Police Department of Kerala, which is the primary law enforcement agency of the state, as designated by the Government of Kerala under Section 79(3)(b) of IT Act r/w Rule 3(1)(d) of Information Technology
Exhibit P3 28-09-2026	The Petitioner received an In-App notification on the NoCap's Facebook Page restricted access to the content of NoCap in India pursuant to an order issued under Section 79(3)(b) of IT Act. The blocking intimation did not reveal any information about the offending content on Petitioner's page, or any other reason, which constituted grounds for blocking of Petitioner's facebook page
Exhibit P4 & Exhibit P5	NoCap's Facebook Pa e enerated monetisation earnin s of [redacted] in March, [redacted] in A ril [redacted] in May, [redacted] in June [redacted] n u an [redacted] in August 202 , amoun ng o [redacted] hese figures show that the age was a cons s en source o ncome for the Petitioner through

	Facebook monetisation
Exhibit P6 28.09.2026 to 20.10.2026	Following the restriction, the Facebook Page generated only [redacted] in monetisation revenue, causing financial prejudice to the Petitioner and affecting its ability to sustain its journalistic operations.
Exhibit P7	According to the Creator Dashboard of the Page, the Facebook Page received about 18,20,16,056 views between 01.03.2026 and 20.10.2026. With about 31,71,173 views on a single day and an average of 6,00,000 views per day. After 27.09.2026, the daily views fell to very low numbers. On 04.10.2026, the Page received only 4,538 views
Exhibit P8	The content published on NoCap's Facebook page prior to its restriction covered various matters of public interest, including the independence of the Election Commission, changes in UPI policies, media freedom, political statements, sports-related news, and social issues. The posts primarily comprised news reports, reproduction of public statements, and political commentary intended to disseminate information and facilitate public discussion

Acts/Rules referred:

Constitution of India

Information Technology Act, 2000

The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021

Judgments Relied:

Bennett Coleman & Co. v. Union of India, (1972) 2 SCC 788.

Haryana 24 News Network Private Limited v. Union of India and Others, CWP No. 30190 of 2026

This writ petition is filed praying for appropriate reliefs.

Dated this the 23rd day of October 2026 .

[redacted]

Counsel for the Petitioner.

E-FILING NO - EF-HCK-2026-092726

BEFORE THE HON'BLE HIGH COURT OF KERALA AT ERNAKULAM

WP(C) No ..... Of Year 2026

PETITIONER(S)

1. HYDER ALI K
   AGED 32 YEARS
   SON OF K.M BAPPUNNI
   CHIEF EDITOR, NOCAP, ST.FRANCIS XAVIER CHURCH ROAD, KATHRIKKADAV, KALOOR, KOCHI RESIDING AT KADAMANNA HOUSE PALLATHADKA, KASARAGOD-
   , PIN-671551

VS

RESPONDENT(S)

1. UNION OF INDIA
   REPRESENTED BY THE SECRETARY, MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY, ELECTRONICS NIKETAN, 6, CGO COMPLEX, LODHI ROAD, NEW DELHI
   , PIN-110003
2. STATE OF KERALA
   REPRESENTED BY THE SECRETARY, HOME DEPARTMENT, ROOM NO. 357A, 1ST FLOOR, MAIN BLOCK, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM
   , PIN -695001
3. DIRECTOR GENERAL OF POLICE & STATE POLICE CHIEF
   STATE POLICE HEADQUARTERS, VELLAYAMBALAM, THIRUVANANTHAPURAM-
   , PIN -695010
4. INSPECTOR GENERAL OF POLICE
   [CYBER POLICE HEADQUARTERS, PATTOM, THIRUVANANTHAPURAM PINCODE KERALA INDIA
   , PIN -695004

5. META PLATFORMS

INC REPRESENTED BY CHIEF EXECUTIVE OFFICER/MANAGING DIRECTOR UNIT 28 AND 29, THE EXECUTIVE CENTER, LEVEL 18, DLF CYBER CITY, BUILDING NO. 5, TOWER A, PHASE III GURGAON -

, PIN -122002

MEMORANDUM OF WRIT PETITION (CIVIL) FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA BY PRASANTH SUGATHAN,VARSHA BHASKAR,MALAVIKA K.

[redacted]

THE HIGH COURT OF KERALA
सत्यमेव जयते

STATEMENT OF FACTS

1. The Petitioner, is a resident of Kerala, journalist by profession, and the Chief Editor of "NoCap", an independent Malayalam digital media organisation in Kerala which was established on 20th November 2023. The Petitioner, along with his team of 10 people, which includes journalists, camerapersons, and designers, have been covering and disseminating news from areas including global, national and regional politics, culture, art, entertainment, gender, and sports, among others, through NoCap. NoCap has been operating as a digital news platform for almost 3 years, and is used by the Petitioner to offer a unique take on issues that often challenges mainstream narratives.A true copy of the Home Page of NoCap Website is produced and marked as **Exhibit P1.**

2. It is submitted that the First Respondent, represented through the Ministry of Electronics and Information Technology (**MeitY**), is responsible for formulating and implementing the laws, regulations and policies governing Information Technology in India. It is further responsible for prescribing due diligence requirements to be followed by intermediaries, and enforcing them, in respect of any information that is uploaded, stored or hosted on their computer resource, in order to maintain their safe harbour under Section 79 of the Information Technology Act 2000 ("**IT Act**").

3. The 2nd Respondent is the State of Kerala represented through its Secretary, Home Department, Government of Kerala. The 3rd Respondent is the Director General of Police and State Police Chief, is the head of the Kerala Police and is responsible for the overall administration, supervision, and functioning of the State police force.

4. The 4th Respondent is the Nodal Officer of Police Department of Kerala, which is the primary law enforcement agency of the state, as designated by the Government of Kerala under Section 79(3)(b) of IT Act r/w Rule 3(1)(d) of Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 ("**IT Rules 2021**") vide Notification dated 04.04.2024 bearing G.O.(Rt)No.1046/2024/HOME. A true copy of the Notification dated 04.04.2024 bearing G.O.(Rt)No.1046/ 2024/ HOME issued by the 2nd respondent is produced and marked as **Exhibit P2**.

5. The 5th Respondent is an Intermediary within the meaning of Section 2(1)(w) of the Information Technology Act, 2000, and operates the social media platform through which the Petitioner publishes and disseminates news and other content to the public.

6. Through the Petitioner, and their team's honest work in practicing journalism, they have managed to gather a large following for NoCap amongst citizens, particularly Malayalam speakers in Kerala. The details of NoCap's reach on social media are as follows:

   6.1. On Facebook [https://www.facebook.com/nocaponlive], NoCap had 1,62,000 followers, before its page was removed or disabled.

   6.2. On Instagram [@nocap.updates, https://www.instagram.com/nocap.updates/], the NoCap has 87,400 followers.

   6.3. Petitioner's YouTube page [https://www.youtube.com/@nocaponlive] has gathered 1,23,000 subscribers.

7. Being an independent digital media, NoCap's main source of revenue is monetisation programme on social media intermediary's platform. In order to maintain its independence, NoCap does not indulge in independent advertisement/ collaboration agreements with any other

company/organization, or has any investment from an external investor. Thus, even the essential operational expenses of NoCap are met by the revenue earned from aforesaid monetization programmes. Therefore, revenue earned from NoCap's facebook page is integral to its survival of the NoCap news organization, which is essential for the Petitioner to exercise his freedom of speech and expression, and carry out his profession of journalism.

8. It is submitted that on 28-09-2026, the Petitioner received an In-App notification on the NoCap's Facebook Page which stated:

'We restricted access to your content in India ***pursuant to a notice from The Government of India/Law Enforcement under Section 79(3) (b) of the Information Technology Act, 2000****. You can learn more about our approach to content restrictions based on local law in our Transparency Center by visiting https: //transparency.meta.com/reports/content -restrictions/content-violating-local-law/.* ***You may reach out to The Government of India / Law Enforcement to find out more information about this notice*** *and take appropriate legal action (as you may deem fit).*'

Unequivocally, there was no transparency about the blocking action, particularly, the blocking order issued under Section 79(3)(b) of IT Act ("**Impugned Order**"), which directed blocking of Petitioner's facebook page. The blocking intimation did not reveal any information about the offending content on Petitioner's page, or any other reason, which constituted grounds for blocking of Petitioner's facebook page. Moreover, the intimation was also silent on the authority that issued the blocking order under Section 79(3)(b) of IT Act ("**Impugned Order**"). A true copy of the In-App Blocking Intimation dated 28-09-2026 received on NoCap's Facebook Page is produced and marked as **Exhibit P3.**

9. It is submitted that according to the Dashboard, the Petitioner's Facebook Page earned approximately [redacted] in March 2026, [redacted] in April 2026, [redacted] in May 2026, [redacted] in June

2026, [redacted] in July 2026, and [redacted] in August 2026. The page received an average of approximately [redacted] per month in the last 6 months. The Page had also previously generated as much as [redacted] from a single post in March 2026. These figures show that the Page was a consistent source of income for the Petitioner through Facebook monetisation. A true copy of the compilation of monthly earning reports for the duration of 6 months from 1st March 2026 to 31st August 2026 of NoCap's Facebook Page is produced and marked as **Exhibit P4.** A true copy of the compilation of per post monetisation of NoCap's Facebook Page prior and post Ext P3 is produced and exhibited as **Exhibit P5.**

10. It is submitted that, following the issuance of the Ext P3 on 28.09.2026, the Page's earnings declined drastically. Between 28.09.2026 and 20.10.2026, the Page earned only [redacted] reflecting a decline of approximately 91% compared to the period before the Impunged Order. Further, between 01.10.2026 and 20.10.2026, the Page earned a mere [redacted] representing a decline of approximately 94.5% compared to the period prior to the Impugned Order. The Per post post revenue has also fallen to almost [redacted] from an average of [redacted] per post. From a regular stream of monetisation revenue, the earnings from the Page has thus fallen drastically and has resulted in substantial loss of income to the Petitioner. A true copy of the compilation of monthly earning reports of NoCap's Facebook Page for the duration 28.09.2026 to 20.10.2026 is produced and marked as **Exhibit P6.**

11. According to the Creator Dashboard of the Page, the Facebook Page received about 18,20,16,056 views between 01.03.2026 and 20.10.2026. With about 31,71,173 views on a single day and an average of 6,00,000 views per day. After 27.09.2026, the daily views fell to very low numbers. On 04.10.2026, the Page received only 4,538 views. The Petitioner believes that the views still being recorded are

from outside India where the page is available. A true copy of the Dashboard of NoCap's Facebook Page is produced and marked as **Exhibit P7.**

12. Notably, the content posted/ published by the Petitioner and his team on NoCap's Facebook Page, in close time preceding its blocking, covered a range of matters of public interest, which *inter alia* included news report or political commentary on — Independence of the Election Commission; Questions concerning changes in rules/ policy governing UPI transactions; Sports-related news; Alleged attack on students at the Satyajit Ray Film and Television Institute; Public statements delivered by political leaders concerning foreign travel of the Chief Minister of Kerala; Concerns regarding media regulation and threats against Journalists for asking questions; Alleged incident involving Delhi Minister Parvesh Verma during a road inspection; Concerns regarding the distribution of oral vaccine drops for children; Commemorative posts on Bhagat Singh and M. S. Swaminathan, etc. These posts primarily comprised news reports, reproduction of public statements, and commentary on political, social, and civic issues, intended to disseminate information and facilitate public discussion on matters of public interest in good faith. Since the Petitioner has not been provided with the Impugned Order or any information on alleged offending/ unlawful content or post on the Facebook page, it is unable to ascertain which, if any, of these posts formed the basis of the Impugned Order. A true copy of posts by Nocap facebook page as of 28th September 2026 and 27th September 2026 is produced and marked as **Exhibit P8.**

13. It is submitted that neither the Impugned Order was communicated to the Petitioner, nor the grounds on which it was issued. Moreover, the Petitioner was not even informed of the agency that issued the Impugned Order. The non-production of the Impugned Order has

deprived the Petitioner of the opportunity to ascertain the legal and factual basis of the restriction, and to seek judicial review of the same. The unreasonable and disproportionate restriction has further impaired the Petitioner's ability to disseminate journalistic content, communicate with an established audience on the social media intermediary Facebook, and practice the profession of journalism through NoCap's operations.

14. The Petitioner is aggrieved by the arbitrary, disproportionate and illegal restriction on his right to freedom of speech and expression (Article 19(1)(a)), and freedom of practicing any profession or carrying out occupation (Article 19(1)(g)), resulting from the removal/ disablement of his news agency – NoCap's Facebook page in India.

15. The Petitioner has no other effective and alternative remedy for the redressal of its grievances than to approach this Hon'ble Court and seek to invoke its extra-ordinary jurisdiction under Article 226 of the Constitution of India on the following grounds :-

GROUNDS

A. Any restriction on NoCap's facebook page, which was used by the Petitioner for disseminating news, expressing his views on current affairs and carrying out his occupation of journalism, interferes with the Petitioner's fundamental rights, including right to freedom of speech and expression (**Article 19(1)(a)**), and right to freedom of occupation and profession (**Article 19(1)(g)**). Therefore, such a restriction must comply with due process, and satisfy the requirements of reasonableness and proportionality.

B. The Hon'ble Supreme Court in a catena of decisions has laid down that, in interpreting a constitutional provision, the Court should keep in mind the social setting of the country so as to show a complete consciousness and deep awareness of the growing requirements of society and the increasing needs of the nation. Independent digital media organisations such as NoCap provide citizens with avenues to access news, exchange ideas and engage with matters of public concern. Such platforms play an important role in a democratic society by enabling information to reach wider audiences, particularly younger generations, and providing crucial avenues for journalistic expression alongside traditional broadcast media outlets, to which relatively few journalists have access.

C. Any restriction affecting the exercise of the fundamental right to freedom of speech and expression, which includes journalistic expression, must be supported by a lawful basis, comply with due process, and satisfy the requirements of reasonableness and proportionality. In the absence of disclosure of the Impugned Order and the reasons for the restriction, the legality, necessity and proportionality of the Impugned Order cannot be effectively ascertained.

D. NoCap's Facebook Page has been blocked without publication of the Impugned Order or its disclosure to the Petitioner and his team, whose fundamental rights have been infringed by it. Moreover, the Petitioner was not afforded an opportunity to be heard before the NoCap's Facebook Page was blocked. This action unequivocally violates due process and the principles of natural justice, and therefore, the Impugned Order is therefore issued through arbitrary process, and violative of Article 14 of the Constitution.

E. This Hon'ble Court has the power under Art.226 to call for the records and quash the order issued to block the Facebook page of NoCap,

when the order has not been communicated to the petitioner. When Rule 3(d) (ii)(II) of the IT Rules 2021 provides that the reasoned intimation should clearly specify the statutory provision invoked, the nature of the unlawful act, and the specific uniform resource locator, identifier or other electronic location of the information, data or communication link required to be removed or disabled, the non-communication of the order to the petitioner is arbitrary and this Hon'ble Court has the power to call for the order and records leading to it and quash it.

F. The non-publication of the Impugned Order, without any justification for withholding the same, is *ex facie* arbitrary and violative of the principles of natural justice and Article 14 of the Constitution, as held by the Hon'ble Supreme Court in ***Maneka Gandhi v. Union of India*, (1978) 1 SCC 248.**

G. Any order that interferes with the fundamental rights of citizens, when passed by an authority charged with the duty to comply with the principles of natural justice in the exercise of its powers, but which fails to comply with such principles, is vitiated by illegality and is liable to be declared null and void.

H. Rule 3 (1) (d) of the Information Technology Rules 2021 as amended on 10.02.2026 provides that an intermediary, on whose computer resource the objectionable information prohibited under any law for the time being in force has been stored, hosted, displayed or published and is used to commit an unlawful act, upon being notified by appropriate Government or its agency under clause (b) to sub- section (3) to Section 79 of the 2000 Act, shall remove or disable access to such information within three hours of the receipt of actual knowledge. Such knowledge shall only arise either from an order of a court of competent jurisdiction or a reasoned written intimation by an officer authorised for

the purpose by the Government or its agency, being not below the rank of Joint Secretary or an officer equivalent in rank et al. In case such intimation is to be issued by the police administration, the authorised officer shall not be below the rank of DIGP, especially authorised by the Government on this behalf. Rule 3(d) (ii) (I) further requires the Government to review every month all intimations issued to intermediaries to ensure that the same are necessary, proportionate and consistent with the provisions of Section 79(3)(b) of the 2000 Act. Further as per Rule 3(d) (ii)(II) the reasoned intimation should clearly specify the statutory provision invoked, the nature of the unlawful act, and the specific uniform resource locator, identifier or other electronic location of the information, data or communication link required to be removed or disabled.

I. In the scheme of things under the above Rule, there is no express provision for affording any hearing to the user prior to issuance of intimation to the intermediary under Rule 3(1)(d), even when the user will be adversely affected by the removal of data or information or the blocking of access to their Page by the intermediary pursuant to such intimation. There is also no express provision requiring the affected user to be informed, as the intermediary is informed under Rule 3(1)(d)(ii)(II), of the legal basis and statutory provision invoked, the nature of the alleged unlawful act, and the specific Uniform Resource Locator, identifier or other electronic location of the information, data or communication link required to be removed or disabled. Informing the intermediary alone does not adequately safeguard the rights of the affected user, as the intermediary may comply with the intimation to protect its safe-harbour protection without independently contesting the legality of the restriction imposed upon the user. Any meaningful opportunity of hearing would necessarily require that the user, against whom action has been taken under Rule 3(1)(d), have knowledge of the

action taken and be made aware of the intimation, its contents and the material relied upon in issuing the same. In the absence of such disclosure, the user is deprived of the ability to understand the allegations, respond to the same, or demonstrate that the restriction is unlawful or disproportionate. The user is also prevented from effectively invoking the available grievance-redressal mechanisms or seeking judicial review of the action. This is particularly arbitrary when the restriction extends to an entire social media Page as in this matter. Every procedure established by law has to be fair and reasonable, which can only be when it has not violated the basic tenets of natural justice, which includes the right to a fair hearing being provided to the user. This has been reiterated time and again by the Supreme Court, and more recently in ***Madhyamam Broadcasting Ltd. v. Union of India,*** (2023) SCC OnLine SC 366,

> *"It must be "right and just and fair" and not arbitrary, fanciful or oppressive; otherwise, it .would be no procedure at all and the requirement of Article 21 would not be satisfied." This Court held that principles of natural justice infuse reasonableness into the procedure. However, the court noted that the principles of natural justice are not set-in stone and are by their very nature modifiable. So, the violation of every conception of natural justice will not necessarily render the procedure unreasonable and violative of Articles 21 and 14. The court held that the test that must be followed to determine if non-compliance of natural justice has led to an unreasonable procedure is whether the procedure that was followed (or the procedure that was not followed) violates the core of the primary tenets of natural justice- the right to a fair hearing and the right against bias"*

J. The Petitioner submits that the notification received from Facebook merely refers to a notice issued by the Government of India or a law enforcement authority under Section 79(3)(b) of the IT Act, without disclosing the underlying order or the material forming the basis of the restriction. In the absence of such disclosure, the Petitioner is unable to ascertain the factual basis for the action or whether the restriction is supported by sufficient material. The Respondents must therefore place the relevant order and material before this Hon'ble Court to enable an effective assessment of the legality of the Impugned Order. The mere reference to a statutory provision or a general assertion of illegality cannot, by itself, preclude judicial scrutiny of an action affecting fundamental rights. The Hon'ble Punjab and Haryana High Court, in ***Haryana 24 News Network Private Limited v. Union of India and Others*****,** CWP No. 30190 of 2026**,** held as follows:

> *"Although sub-rule (2) to Rule 3 (Information Technology Rules 2021) does not explicitly lay down the requirement for the Government or its agency to notify the user/person responsible for uploading the data or information on the social media page before sending the intimation, it is an essential obligation ingrained in the principles of natural justice and has to be read into the Rule. Accordingly, a copy of the intimation must be furnished to the user when it is sent to the intermediary. This will make the procedure of sub-rule (2) to Rule 3 compliant of the primary tenets of natural justice and constitutionally valid. In the instant case, the petitioner has not been furnished a copy of the intimation dated 21.08.2026, either by the Superintendent of Police or the intermediary and has been kept completely in dark about the whole exercise. In such a situation, approaching the grievance redressal mechanism by it will be a futile exercise and seriously impair its right to defend. Therefore, this Court finds no*

justifiable ground to relegate the petitioner to the Grievance Officer for resolution of grievance against blocking of its Facebook page."

K. The Petitioner further submits that it is unknown to him whether the intimation resulting in the restriction of the Facebook Page was subjected to the mandatory periodic review contemplated under Rule 3(1)(d)(ii)(I) of the Information Technology Rules, 2021. The Respondents have not disclosed whether such a review was conducted, the authority by whom it was undertaken, or whether the necessity and proportionality of restricting the entire Page were examined. The Petitioner therefore seeks disclosure of the records relating to any such review, including the decision taken and the reasons recorded therein, to enable this Hon'ble Court to ascertain whether the statutory safeguards prescribed under the IT Rules 2021 were duly complied with.

L. The rules of natural justice which include the right to be notified and the right to a hearing, should be applicable to the orders passed under Section 79(3)(b) of IT Act r/w Rule 3(1)(d) of IT Rules 2021. As held by the Hon'ble Supreme Court in ***A.K. Kraipak v. Union of India,*** (1969) 2 SCC 262

"20. The aim of the rules of natural justice is to secure justice or to

put it negatively to prevent miscarriage of justice. These rules can operate only in areas not covered by any law validly made. In other words they do not supplant the law of the land but supplement it."

M. The Impugned Order has neither been supplied to the Petitioner or his team, nor have they been informed of the grounds on which the blocking decision is based. Moreover, the in-app blocking intimation

received by the Petitioner does not even identify the specific offending content, which is alleged to be unlawful or non-compliant with IT Rules 2021. Consequently, the Petitioner is unaware of the precise reasons for the restriction imposed on his fundamental rights. Unequivocally, the Petitioner fundamental right to seek judicial review, as guaranteed under Article 21 of the Constitution, has been violated, as the Petitioner has been deprived of the opportunity to effectively challenge the blocking decision or Impugned Order before a competent court of law.

N. The Impugned Order warrants scrutiny by this Hon'ble Court to determine whether it imposes an excessive or disproportionate restriction upon the Petitioner's freedom of speech and expression. The burden of demonstrating the legal and factual basis for a restriction affecting fundamental rights rests upon the State when the action is challenged before a competent Court. The Hon'ble Supreme Court in ***Madhyamam Broadcasting Limited v. Union of India,*** (2023) 13 SCC 401 has held that:

> "*94. It is not sufficient for the State to identify its purpose in broad conceptual terms such as national security and public order. Rather, it is imperative for the State to prove through the submission of cogent material that non-disclosure is in the interest of national security. It is the Court's duty to assess if there is sufficient material for forming such an opinion. A claim cannot be made out of thin air without material backing for such a conclusion. The Court must determine if the State makes the claim in a bona fide manner."*

O. Producing orders which affect the fundamental rights of citizens is necessary as a part of citizens' right to know under the freedom of speech and expression under Article 19(1)(a). As the Hon'ble Supreme

Court observed in its judgment in ***Anuradha Bhasin v. Union of India*** (2020) 3 SCC 637 regarding the publication of orders curtailing the fundamental rights of citizens:

> "*23.1. First, Article 19 of the Constitution has been interpreted to mandate right to information as an important facet of the right to freedom of speech and expression. A democracy, which is sworn to transparency and accountability, necessarily mandates the production of orders as it is the right of an individual to know. Moreover, fundamental rights itself connote a qualitative requirement wherein the State has to act in a responsible manner to uphold Part III of the Constitution and not to take away these rights in an implied fashion or in casual and cavalier manner.*
>
> *24. As a general principle, on a challenge being made regarding the curtailment of fundamental rights as a result of any order passed or action taken by the State which is not easily available, the State should take a proactive approach in ensuring that all the relevant orders are placed before the Court, unless there is some specific ground of privilege or countervailing public interest to be balanced, which must be specifically claimed by the State on affidavit. In such cases, the Court could determine whether, in the facts and circumstances, the privilege or public interest claim of the State overrides the interests of the petitioner. Such portion of the order can be redacted or such material can be claimed as privileged, if the State justifies such redaction on the grounds, as allowed under the law.*
>
> *25. In the present case, while the State initially claimed privilege, it subsequently dropped the claim and produced certain sample orders, citing difficulty in producing all the orders before this Court. In our opinion, this is not a valid ground to refuse production of orders before the Court.*"

P. The Impugned Order blocks the entire facebook page of NoCap under Section 79(3)(b) of IT Act, read with Rules 3(1)(d) of IT Rules 2021, rather than restricting access to any purported specific offending content, thereby, imposing an unreasonable and disproportionate restriction on Petitioner's freedom of speech and expression, and

freedom of occupation, in violation of Article 19(1)(a) and Article 19(1)(g) of the Constitution.

Q. Any restriction on the enjoyment of the fundamental right to freedom of speech and expression under Article 19(1)(a) must be proportionate and not excessive in nature, or beyond what is required for achieving the objective of the legislation, as held by the Hon'ble Supreme Court in ***Chintaman Rao v. State of Madhya Pradesh***, AIR 1951 SC 118.. Since the issuance and implementation of the Impugned Order, the Petitioner's right to freedom of speech and expression, and right to practice the profession of journalism have been significantly impaired, as the Petitioner is unable to disseminate his news content to the large audience he had curated on the intermediary platform Facebook. Moreover, the Impugned Order has adversely affected the survival of Petitioner's independent news organization, as it has suffered a significant loss of revenue which was earlier being generated through monetisation programmes on Facebook. The restriction has directly affected the channel's ability to generate income from its content, thereby adversely affecting the financial sustainability of the independent media organisation. As stated above, the channel's primary source of revenue was the income generated from monetisation programmes on Facebook, and the continued restriction has caused ongoing financial prejudice to the Petitioner and threatens the channel's ability to sustain its journalistic operations. The adverse financial consequences of the Impugned Order, therefore, extend beyond the restriction of access to content and directly impair the Petitioner's ability to carry on its journalistic activities and disseminate information to the public.

R. BECAUSE the Respondents have operationalised the Sahyog Portal as a mechanism through which various Central and State Government agencies, as well as local police authorities, may issue requests or

directions for the blocking of online information purportedly under Section 79(3)(b) of the Information Technology Act, 2000. The Petitioner submits that the use of this mechanism raises serious concerns regarding the proliferation of blocking requests outside the procedure prescribed under Section 69A of the Act and the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009. In ***Shreya Singhal* v*. Union of India***, (2015) 5 SCC 1, the Supreme Court held that 'actual knowledge' for intermediary liability arises only from a court order or notification by the appropriate government. In paragraph 122, the Court observed:

"Section 79(3)(b) has to be read down to mean that the intermediary upon receiving actual knowledge that a court order has been passed asking it to expeditiously remove or disable access to certain material must then fail to expeditiously remove or disable access to that material… Also, the Court order and/or the notification by the appropriate Government or its agency must strictly conform to the subject-matters laid down in Article 19(2). Unlawful acts beyond what is laid down in Article 19(2) obviously cannot form any part of Section 79. With these two caveats, we refrain from striking down Section 79(3)(b)."

A plain reading of the above reflects the Hon'ble Court's emphasis on the necessity of judicial or quasi judicial determination of content illegality to prevent arbitrary censorship and safeguard the right to free speech. By enabling multiple authorities to initiate the restriction of online content through a separate mechanism, without the transparency and procedural safeguards associated with the statutory blocking framework, the Sahyog Portal facilitates restrictions on online speech without adequate disclosure of the legal basis, reasons, and material underlying such action. The Petitioner submits that Section 79(3)(b), which forms part of the intermediary safe-harbour framework, cannot be

treated as an independent source of blocking power or employed to circumvent the safeguards prescribed by law for restricting access to online information.

Rule 16 of the Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009, which prescribes confidentiality in respect of requests and complaints received and actions taken thereon, must be read in the context of the statutory framework under which the said Rules have been enacted, namely, Section 69A of the Information Technology Act, 2000. The said Rule cannot be extended to an action purportedly taken under Section 79(3)(b) of the Information Technology Act, 2000, which concerns the conditions governing an intermediary's exemption from liability and does not, by itself, prescribe an independent information-blocking mechanism accompanied by a corresponding confidentiality regime. Accordingly, the Respondents cannot rely upon Rule 16 as a basis for withholding the underlying notice or order where the restriction has been communicated as having been imposed under Section 79(3)(b).

S. The failure to provide individualised reasons for restricting online content renders the exercise of governmental power arbitrary and prevents the affected person from effectively challenging the restriction. In ***P. Chockalingam v. The Additional Chief Secretary to Government of Tamil Nadu & Ors.*, W.P. No. 19439 of 2026**, the petitioner challenged a notice issued under Section 79(3)(b) of the Information Technology Act, 2000, read with Rule 3(1)(d) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021, which directed the removal or blocking of multiple URLs without individualised reasons and required compliance within a period of three hours. The Hon'ble High Court of Madras

passed an interim order staying the impugned notice and directing steps to unblock and restore the affected URLs, while seeking an explanation regarding the statutory basis for the directions, the reasons for blocking individual URLs and compliance with applicable safeguards.

> *" 24. The constitutional infirmity in a blanket direction lies not merely in its width, but in its silence. When the State restricts speech, it must speak through reasons. A citizen's liberty cannot be curtailed by a cryptic command. A content creator cannot be silenced by an omnibus formula. A political opinion cannot be removed merely because it is sharp, inconvenient, satirical, dissenting or unpalatable.*
>
> *25. Article 19(1)(a) of the Constitution of India protects not only polite speech, agreeable speech or speech which is comfortable to those in power. It protects criticism, dissent, satire, political disagreement and robust public debate. The constitutional value of free speech is tested most severely when the speech in question is inconvenient to authority."*

The Petitioner submits that the requirement to identify the legal and factual basis for each restriction is particularly important where the restriction affects journalistic content, political expression or matters of public concern. In the present case, the Respondents have not disclosed the underlying notice or order, the content alleged to be unlawful, or the reasons for restricting the Petitioner's Facebook page. The Impugned Order therefore prevents the Petitioner from understanding the allegations against it and raises substantial questions concerning compliance with Articles 14, 19(1)(a), 19(1)(g) and 21 of the Constitution of India. In ***Shrishti Khanna v. Union of India & Ors.*, W.P.(C) No. 10232 of 2026**, before the Hon'ble High Court of Delhi, a content creator challenged the restriction of her Instagram account

under Section 79(3)(b) of the Information Technology Act, 2000, read with Rule 3(1)(d) of the Information Technology Rules, 2021. The account was initially restricted without disclosure of the authority responsible or the specific content complained of. The blocking order was subsequently furnished by the intermediary, identifying the authority responsible for the restriction, following which the petition was withdrawn with liberty to approach the jurisdictional High Court. A similar issue arose in ***Rafiq Mohammed v. Union of India & Ors.*****, W.P.(C) No. 6223 of 2026**, where the underlying order was disclosed during the proceedings and the petitioner was permitted to withdraw the petition with liberty to approach the jurisdictional High Court. These proceedings illustrate the practical difficulty faced by affected persons when the legal basis and issuing authority are not disclosed at the time of restriction. In the present case, the Petitioner has received only a notification referring generally to a notice from the Government of India or a law enforcement authority under Section 79(3)(b), without a copy of the notice or order.

T. The existence of unguided discretion in an authority carries dangers of official arbitrariness, thereby offending Article 14. As the Hon'ble Supreme Court observed in the case of ***Sudhir Chandra v. Tata Iron & Steel Corporation Limited,*** AIR 1984 SC 1064;

> *"Our Constitution envisages a society governed by rule of law. Absolute discretion uncontrolled by guidelines which may permit denial of equality before the law is the antithesis of rule of law. Absolute discretion not judicially reviewable inheres the pernicious tendency to be arbitrary and is therefore violative of Article 14."*

U. The Impugned Order impedes the Petitioner's ability to disseminate information and the public's ability to access such information, and

further infringes the freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution of India.

V. The freedom of speech and expression guaranteed to each citizen under Article 19(1)(a) embraces within its scope the freedom to disseminate information and exchange ideas, as recognised by the Hon'ble Supreme Court in ***People's Union for Civil Liberties v. Union of India*, (2003) 4 SCC 399.** The freedom of the press is an essential component of the freedom of speech and expression and includes the freedom to publish, circulate and disseminate information to the public. In the present case, the Petitioner has established NoCap as an independent Malayalam digital media organisation that reports on politics, culture, art, entertainment, gender, sports and other matters of public interest. The restriction imposed upon the Facebook page of NoCap directly impedes the Petitioner's ability to communicate with its audience and disseminate journalistic content. The Impugned Order therefore unreasonably infringes the Petitioner's fundamental right to freedom of speech and expression under Article 19(1)(a) of the Constitution of India.

W. In ***Bennett Coleman & Co. v. Union of India*, (1972) 2 SCC 788**, the Hon'ble Supreme Court recognised that the freedom of the press under Article 19(1)(a) extends beyond the mere right to publish and includes the freedom of circulation. The Court recognised that restrictions affecting the circulation of newspapers, the number of pages they could publish, and the space available for news and advertisements could directly impair press freedom. The underlying principle is that restrictions on the means through which a publication reaches its audience cannot be viewed as merely incidental or commercial consequences; they may directly affect the exercise of the right to freedom of speech and expression.

> *"The faith of a citizen is that political wisdom and virtue will sustain themselves in the free market of ideas so long as the channels of communication are left open. The faith in the popular Government rests on the old dictum "let the people have the truth and the freedom to discuss it and all will go well". The liberty of the press remains an "Art" of the Covenant" in every democracy. Steel will yield products of steel. Newsprint will manifest whatever is thought of by man. The newspapers give ideas. The newspapers give the people the freedom to find out what ideas are correct. Therefore, the freedom of the press is to be enriched by removing the restrictions on page limit and allowing them to have new editions or new papers. It need not be stressed that if the quantity of newsprint available does not permit grant of additional quota for new papers that is a different matter. The restrictions are to be removed. Newspapers have to be left free, to determine their pages, their circulation and their new editions within their quota of what has been fixed fairly."*

X. For a digital media organisation such as NoCap, its social media pages and posts perform a function analogous to the pages and circulation networks of a newspaper in the print-media context considered in *Bennett Coleman*. NoCap's Facebook page is not merely a supplementary promotional channel but a primary medium through which it publishes and circulates journalistic content, reaches its audience, and sustains its operations through platform monetisation. Restricting access to the Facebook page therefore has an effect comparable to restricting the pages or circulation of a newspaper: it limits the organisation's ability to disseminate its reporting, reach readers, and generate revenue necessary to sustain its journalistic activities. The restriction consequently affects both the circulation of information and the financial viability of the publication. The

constitutional protection recognised in *Bennett Coleman* must, therefore, be applied in a manner that accounts for the means through which the press operates in the digital environment. The Impugned Order particularly when imposed without disclosure of the underlying notice or reasons, warrants scrutiny as a measure directly affecting the Petitioner's exercise of the right to freedom of speech and expression under Article 19(1)(a).

Y. The Impugned Order restricts access to an established medium of journalistic communication and thereby infringes the fundamental right to freedom of speech and expression under Article 19(1)(a) of the Constitution of India. The Facebook page of NoCap has approximately 1,62,000 followers, while its Instagram account has approximately 87,400 followers and its YouTube channel has approximately 1,23,000 subscribers. The Petitioner's journalistic content receives substantial public engagement, with posts averaging approximately 3,00,000 views. The Petitioner runs an "Independent" digital media organisation that also provides alternative avenues for the dissemination of information without commercial interests, advertising considerations, ownership structures and other stakeholder interests. The restriction of the Petitioner's Facebook page therefore affects not merely the Petitioner's ability to publish content but also the diversity of information available to the public. The restriction of access to the Petitioner's Facebook page consequently affects the Petitioner's ability to communicate with an established audience and the ability of such audience to access its journalistic work. The Hon'ble Supreme Court in ***Ministry of Information and Broadcasting v. Cricket Association of Bengal*, (1995) 2 SCC 161,** recognised the importance of the freedom to communicate and the corresponding right to receive information. An arbitrary interference with the ability to communicate and disseminate information is therefore a violation of the right to disseminate

information, which is a concomitant of the freedom of speech and expression under Article 19(1)(a).

Z. The Impugned Order dated 28.09.2026 interferes with the Petitioner's right to practise his profession of journalism, guaranteed under Article 19(1)(g) of the Constitution of India. The Petitioner is the Chief Editor of NoCap, an independent Malayalam digital media organisation whose principal means of disseminating journalistic content and reaching its audience includes social media platforms. The restriction of NoCap's Facebook page impairs the Petitioner's ability to communicate with an established audience and carry on his journalistic activities through a significant medium of publication.

AA. NoCap's primary source of revenue is monetisation through social media platforms, which is used to meet the expenses of running the organisation and sustaining its journalistic operations. The restriction of the Facebook page has adversely affected its ability to generate revenue from its content, thereby affecting the financial resources available to sustain its work. The Impugned Order consequently has effects extending beyond the restriction of access to content and directly impacts the Petitioner's ability to carry on his profession through NoCap. The Impugned Order has stopped the only income of NoCap. Before the Impugned Order, the Page earned about USD 377 a month. Now it earns almost nothing. This has taken away the money NoCap needs to do its work, and so it affects the Petitioner's right to practise his profession of journalism under Article 19(1)(g). All this was done without any notice, reasons or hearing.

BB. The Impugned Order violates the Petitioner's right to livelihood under Article 21 of the Constitution of India. The Petitioner's primary source of revenue is the monetisation of content published on social media platforms, including Facebook. The restriction of NoCap's

Facebook page has resulted in the loss of revenue, directly affecting the Petitioner's livelihood and the ability to sustain its journalistic operations. In ***Sk. Safikul Islam v. Union of India & Ors.*****, WPA 21356 of 2024 and WPA 21358 of 2024,** order dated 4 October 2024, the Calcutta High Court held that the freezing of a journalist's bank account, which constituted his sole source of income, without due process violated his right to livelihood and directed that the account be defrozen.

> *"Furthermore, this Court holds that the freezing of the petitioner's bank account without following due process constituted a violation of his right to livelihood enshrined under the Constitution of India. The State had not provided any justifiable reason for continuing the freezing of the account, leading the Court to order its immediate defreezing. In granting interim relief, this Court underscored that actions by the State motivated by mala fide intent to stifle free speech and press freedom cannot be upheld. This Court emphasized that the allegations were not supported by any credible evidence and were intended to harass the petitioner and obstruct his journalistic activities. "*

The Petitioner submits that the restriction of access to its primary source of revenue has similarly impaired its ability to sustain its journalistic activities and has caused continuing financial prejudice, thereby infringing the Petitioner's right to livelihood under Article 21 of the Constitution of India.

CC. The Petitioner's Facebook page is not merely an individual social media account but an established channel for disseminating journalistic content and reaching members of the public. The restriction of the entire Page instead of a rather than the specific content that is alleged to be unlawful, fails to satisfy the requirements of proportionality. Even assuming that a particular content warranted restriction, disabling the

entire Page, including unrelated journalistic material, imposes an excessive restriction on the Petitioners fundamental rights.

It was held by the Hon'ble Supreme Court in ***Anuradha Bhasin v. Union of India***, (2020) 3 SCC 637,

> *"70. In view of the aforesaid discussion, we may summarize the requirements of the doctrine of proportionality which must be followed by the authorities before passing any order intending on restricting fundamental rights of individuals. In the first stage itself, the possible goal of such a measure intended at imposing restrictions must be determined. It ought to be noted that such a goal must be legitimate. However, before settling on the aforesaid measure, the authorities must assess the existence of any alternative mechanism in furtherance of the aforesaid goal. The appropriateness of such a measure depends on its implication upon the fundamental rights and the necessity of such measures. It is undeniable from the aforesaid holding that only the least restrictive measures can be resorted to by the State, taking into consideration the facts and circumstances. Lastly, since the order has serious implications on the fundamental rights of the affected parties, the same should be supported by sufficient material and should be amenable to judicial review.*
>
> *71.The degree of restriction and the scope of the same, both territorially and temporally, must stand in relation to what is actually necessary to combat an emergent situation.*
>
> *"72. To consider the immediate impact of restrictions upon the realization of the fundamental rights, the decision maker must prioritize the various factors at stake. Such attribution of relative importance is what constitutes proportionality. It ought to be noted that a decision which curtails fundamental rights without*

appropriate justification will be classified as disproportionate. The concept of proportionality requires a restriction to be tailored in accordance with the territorial extent of the restriction, the stage of emergency, nature of urgency, duration of such restrictive measure and nature of such restriction. The triangulation of a restriction requires the consideration of appropriateness, necessity and the least restrictive measure before being imposed."

DD. In ***K.S. Puttaswamy v. Union of India, (2017) 10 SCC 1,*** the Hon'ble Supreme Court held that an invasion of life or personal liberty must meet the three-fold requirement of (i) legality, which postulates the existence of law; (ii) need, defined in terms of a legitimate state aim; and (iii) proportionality which ensures a rational nexus between the objects and the means adopted to achieve them (Chandrachud, J. on behalf of Khehar, C.J., Agarwal, J., himself and Nazeer, J., at para 325; reiterated in Chelameswar, J. at paras 379-380; Nariman, J. at para 526, Kaul, J. at para 638). The satisfaction or necessity or expediency has to answer the triple test evolved in Puttaswamy, namely that the order was necessary, proportionate and for legitimate reasons. Further In ***KS Puttaswamy vs Union of India*** *(2019) 1* SCC 1, the Hon'ble Supreme Court held that

"According to this (proportionality) test, a measure restricting a right must, first, serve a legitimate goal (legitimate goal stage); it must, secondly, be a suitable means of furthering this goal (suitability or rational connection stage); thirdly, there must not be any less restrictive but equally effective alternative (necessity stage); and fourthly, the measure must not have a disproportionate impact on the right-holder (balancing stage)."

The Petitioner submits that the Respondents have not disclosed the Impunged Order, identified the allegedly unlawful content, or furnished reasons demonstrating why a page-wide restriction was necessary or why less restrictive alternatives would have been insufficient prior to or post restricting the entire page. The Impunged Order thus fails to demonstrate that it bears any rational nexus to the opaque objective of the Respondents, is necessary to achieve a legitimate State aim, or is a proportionate measure undertaken. Accordingly, the restriction is arbitrary and unconstitutional and is liable to be set aside.

EE. The restriction of the entire page also affects the Petitioner's ability to publish material, maintain audience engagement and sustain its operations through platform monetisation. In **Shilpa Kumari v. Union of India & Ors., W.P.(C) No. 4651 of 2026** (Para 8), the Hon'ble High Court of Delhi issued directions requiring identification of the specific content considered objectionable and a hearing before the competent committee, while permitting the petitioner's Facebook account to remain operational subject to the temporary blocking of identified material. The Petitioner submits that, in the present case, the restriction of his entire Facebook page without disclosure of the specific content alleged to be unlawful or the reasons necessitating such a restriction is excessive and interferes with the Petitioner's right to livelihood under Article 21.

PRAYER

Hence, it is humbly prayed that this Hon'ble Court may be pleased to call for the records of the case and:-

I. To issue a writ in the nature of Mandamus or any other appropriate writ, order or direction to the Respondents to produce and publish the Impugned Order blocking the Facebook Page of NoCap;

II. To issue a writ, order, or direction in the nature of Certiorari or any other appropriate writ, calling for and setting aside the order and records, leading to directing the blocking/ take -down of Facebook Page of NoCap;

III. To issue a writ in the nature of Mandamus or any other appropriate writ, order or direction to the Respondents to restore the Facebook Page of NoCap;

IV. To issue an order declaring that orders issued under Section 79(3)(b) of the Information Technology Act r/w Rule 3(1)(d) of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 have to be communicated to the user whose content is removed/disabled by the order;

V. To issue an order exempting the petitioner from filing translations of documents in Malayalam:

VI. To issue such other appropriate writ, order or direction as this Hon'ble Court may deem just and proper to issue in the circumstances of the case.

INTERIM RELIEF PRAYED FOR

This Hon'ble Court be pleased to issue an interim order:

1. directing Respondents to produce the Impugned Order blocking the Facebook Page of NoCap and the connected records, and
2. staying the operation of the Impugned Order, and directing the respondents to reinstate NoCap's Facebook's Page, pending disposal of this Writ petition.

Dated this the 23rd day of October 2026

[redacted]

PETITIONER

[redacted]

Counsel for the petitioner

BEFORE THE HON'BLE HIGH COURT OF KERALA, ERNAKULAM

(Special Original Jurisdiction)

Writ Petition (Civil) No. …… of 2026

Hyder Ali K …Petitioner

Vs

Union of India & Ors …Respondents

AFFIDAVIT

I,Hyder Ali K, [redacted] do hereby solemnly affirm and state as follows:-

1. I am the petitioner in the above Writ Petition and am conversant with the facts of the case.
2. The allegations and averments in the Writ Petition are true and correct to the best of my knowledge, information and belief.
3. The Exhibits produced and marked are true copies of the originals.
4. The interim order prayed for is just and necessary
5. I have not filed earlier petitions seeking similar and identical reliefs in respect of the same subject matter.

All the facts stated above are true and correct.

Dated this the 23rd day of October 2026

[redacted]

DEPONENT.

Solemnly affirmed and signed before me by the deponent, who is personally known to me on this the 23rd day of October 2026 at my office at Ernakulam.

[redacted]

Advocate

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