# IN THE HIGH COURT OF JHARKHAND AT RANCHI

# (Civil Writ Jurisdiction)

**W.P. (PIL) No.\_\_­­­­­­­­­­\_\_\_\_\_\_/of 2019**

**In the matter of:-**

An application under Article 226 of the Constitution of India.

And

**In the matter of:-**

Harsh Mander Son of Harmander Singh, Resident of C6/6233, Ground Floor Vasant Kunj, P.O. & P.S.- Vasant Kunj, New Delhi, India.

**…** **Petitioner**

Versus

1. State of Jharkhand, Through Chief Secretary, 1st Floor, Project Bhawan, P.O. & P.S. Dhurwa, Ranchi-834004
2. Secretary, Home Department, Govt. of Jharkhand, Project Building, P.O. and P.S.-Dhurwa, Ranchi-834004

... **Respondents**

TO,

HON’BLE MR. JUSTICE PRASHANT KUMAR, THE ACTING CHIEF JUSTICE OF THE HIGH COURT OF JHARKHAND, RANCHI AND HIS OTHER COMPANION JUDGES OF THE SAID HON’BLE COURT.

The humble petition on behalf of the petitioner above named.

**MOST RESPECTFULLY SHOWETH:**

1. That in the instant petition, the petitioners pray for issuance of an appropriate writ(s)/ order(s)/ direction(s) for following relief(s):-

1. For a writ in the nature of Mandamus directing upon the State of Jharkhand to prepare a lynching/mob violence victim compensation scheme in the light of the provisions of Section 357A of CrPC and in the said scheme for computation of compensation, the Respondent should give due regard to the nature of bodily

injury, psychological injury and loss of earnings including loss of opportunities of employment and education and expenses incurred on account of legal and medical expenses, as directed by ***Hon’ble Supreme Court Tehseen Poonawalla vs Union of India***.

1. For a writ in the nature of Mandamus directing upon the State of Jharkhand request the authority concerned to issues notification/direction/guidelines to designate a court in each districts to try the lynching cases on day to day basis and conclude the trial within 6 months from the date of cognizance as directed by the ***Hon’ble Supreme Court*** in the ***Tehseen Poonawalla vs Union of India***.
2. For a writ in the nature of Mandamus directing upon the State of Jharkhand to broadcast on television, radio and other media platforms and also on official websites of the Home Department and the Jharkhand Police that mob violence and lynching shall invite serious consequences as per the Preventive Measures given by ***Hon'ble Supreme Court in Tehseen Poonawalla vs Union of India***.
3. For a writ in the nature of Mandamus directing upon the State of Jharkhand to strictly comply with the **Preventive, Remedial** and **Punitive Measures** as directed by the Hon’ble Supreme Court of India in ***Tehseen Poonawalla vs Union of India***.
4. For a writ in the nature of Mandamus directing upon the State of Jharkhand to ensure that all families of Lynching victim receive commensurate compensation as prescribed by the Hon’ble Supreme Court of India in ***Tehseen Poonawalla v Union of India*** [WP(C)754/2016].
5. Pass any such other orders as may be deemed fit in the facts and circumstances of this case.
6. That this writ petition has been filed on the following grounds:

**Grounds**

* 1. For that ***Hon’ble Supreme Court in*** ***Tehseen Poonawalla v Union of India & others*** has passed order on 17/07/18 wherein it prescribed Preventive, Remedial and Punitive measures to deal with the incidents of Mob Lynching/violence and directed State governments to comply with the order.
  2. For that powers of the High Court to issue writs under Article 226 can be exercised for a twofold purpose, viz., the enforcement of a) fundamental rights, as well as of b) non-fundamental or ordinary legal rights, as it was held by the Supreme Court in ***Director of Settlements, A.P. v. M.R. Apparao*, (2002) 4 SCC 638**.
  3. For that the Supreme Court judgement of **Tehseen Poonawalla v. Union of India** cast a duty upon Respondents to prevent such acts of act of mob violence which directly challenges Rule of Law of this country.
  4. For that public officials must be held accountable for the dereliction of duty for non-compliance with Supreme Court orders by not taking action to prevent vigilante groups from inflicting violence against citizens of the country and taking the laws into their own hands.
  5. For that it is the duty of Respondents to ensure access to justice for victims of mob violence and such justice must be carried out in an effective manner.
  6. For that the families of the victims of such acts of blatant violence must be compensated by the state in light of the judgement of the Supreme Court in ***Tehseen Poonawalla v. Union of India***. That the state cannot shy away from compensating the victims or the families of the victims of such targeted violence and lynchings.
  7. For that the respondent/s are duty bound to implement the judgment/orders passed by Hon’ble Supreme Court in **Tehseen Poonawalla v. Union of India** with regards to cases of mob violence.
  8. That any other ground may be urged at the time of hearing.

1. That the petitioner is Mr. Harsh Mander, human rights and peace worker, author, columnist, researcher and teacher. He has been traveling around the country since 2017 as part of the Karwan-e-Mohabbat spreading a message of peace. Besides this, he works

with survivors of mass violence, hunger, homeless persons and street children. He is the Director, Centre for Equity Studies, and founder of the campaigns Aman Biradari, for secularism, peace and justice; Nyayagrah, for legal justice and reconciliation for the survivors of communal violence; Dil Se, for street children, and ‘Hausla’ for urban homeless people, for homeless shelters, recovery shelters and street medicine. He was Special Commissioner to the Supreme Court of India in the Right to Food case for twelve years from 2005-17. He is Special Monitor of the statutory National Human Rights Commission for Minority Rights. He convenes and edits the annual India Exclusion Report. He worked formerly in the Indian Administrative Service in Madhya Pradesh and Chhattisgarh for almost two decades. Among his awards are the Rajiv Gandhi National Sadbhavana Award for peace work, the M.A. Thomas National Human Rights Award 2002, the South Asian Minority Lawyers Harmony Award 2012 and the Chisthi Harmony Award 2012.The petitioners bank account number is 007101031452, pan number is AAWPH4686H and aadhar number is 356777866512. The petitioner has no personal interest, direct or indirect, in the subject matter of this Public Interest Litigation and is filing this writ application for the welfare and benefit of victims of mob violence. Majority of the victims are belonging from poor and weaker section of the society. This section of society cannot raise their voice either because of lack of awareness or because they are not financially sound. There is no civil, criminal, revenue or any litigation involving the petitioner, which has or could have a legal nexus with the issues involved in the PIL.

1. This petition pertains to the sinister phenomenon of mob lynching that has cast a terrifying shadow over large swathes of the state of Jharkhand, and which the **Hon’ble Supreme Court has in the case of Tehseen Poonawalla v. Union of India [WP(C)754/2016] described as ‘Horrendous Acts of Mobocracy’**. Lynchings have been sparked by disputes over allegations of cow smuggling or slaughter or rumours of cattle theft or even child lifting etc.
2. That between May 2015 and December 2018, at least 44 people—killed across 12 Indian states. Over that same period, around 280 people were injured in over 100 different incidents across 20 states, according to a report published by **Human Rights Watch**.
3. That it is pertinent to mention here that the State of Jharkhand is the topmost state in terms of death due to lynching (Around 17 Deaths). This is the largest number of deaths due to the incidents of Lynchings in the country. These incidents have directly challenged the Authority of Rule of Law of our Nation. The Petitioner has collected the details of some of the incidents of Jharkhand and found that the directions of the Hon’ble Supreme Court in the case of *Tehseen Poonawalla vs. Union of India* [WP(C )754/2016] is not being followed by the Respondents. The Petitioner seeks this Hon’ble Court’s intervention for the compliance of directions on the subject. The details of the lynching incidents of Jharkhand are arranged in the table below.

|  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- |
| **Sr. N.** | **District** | **Date of Incident** | **Person/s Lynched** | **Person Injured** | **FIR No.** | **Status of Trial/Speedy Trial** | **Compensation Amount** |
| 1 | Latehar | 18/03/16 | 1. Imtiyaz Khan 2. Mazloom Ansari | 0 | Balumath P.S. Case no. 42/16 | Trial Complete/No Speedy Trial | 2 lakhs |
| 2 | Ramgarh | 29/06/17 | 1. Alimuddin Ansari | 0 | Ramgarh P.S. Case no. 198/17 | Complete/ Speedy Trial | 7 Lakhs |
| 3 | East Singhbhum | 18/05/17 | 1. Seikh Halim 2. Seraj Khan 3. Md Sajjad 4. Seikh Nayeem | 0 | Rajnagar P.S. Case No. 31/17  &  32/17 | Trial is Going on/No Speedy Trial | 2 lakh Each |
| 4 | East Singhbhum | 18/05/17 | 1. Gaurav Verma 2. Vikash Verma 3. Ganesh Gupta 4. Ram Chandra Devi | 1 | Bagbera P.S. Case No. 91/17 | Trial is Going on/No Speedy Trial | NIL |
| 5 | Garhwa | 19/08/17 | 1. Ramesh Minz |  | Bhandaria PS Case No 49/17 | Evidence stage. No speedy trial | NIL |
| 6 | Palamu | 06/09/18 | 1. Bublu Mushhar | 2 | Pandu P.S. Case No. 45/18 | Trial is Going on/No Speedy Trial | Nil |
| 7 | Palamu | 12/03/19 | 1. Vakil Khan | 4 | Haider Nagar P.S. 17/19 | Under Investigation | Nil |
| 8 | Godda | 13/06/18 | 1. Chiraguddin 2. Murtaza Ansari | 0 | Deodar P.S. Case No 28/18 | Trial is Going on/No Speedy Trial | 50,000/- Each |
| 9 | Gumla | 10/05/19 | 1. Prakash Lakda | 3 | Dumri P.S.Case No. 09/19 | Under Investigation | Nil |
| 10 | Ranchi | 10/06/18 | Attempt to Lynch | 1-Azharul  2-Imran | Nagri PS Case No. 90/18 | Evidence stage. No speedy trial | 1 lakh |
| 11 | Giridih | 02/09/17 | Attempt to Lynch | 1-Rahman Mian | Bengabad PS Case No. 314/17 | Evidence stage. No speedy trial | Nil |

1. The Petitioner humbly submits that despite of the Supreme Court of India order in ***Tehseen Poonawalla v Union of India* [WP(C)754/2016]** the Respondent/s has miserably failed to comply with the directions and also failed to stop such incidents in the State of Jharkhand. The Hon’ble Supreme Court in above order has held that it is the duty of the State to ensure that the machinery of law and order functions efficiently and effectively in maintaining peace and the authorities which are conferred with the principal obligations to see that vigilantism of any kind, be it cow vigilantism or any other kind of vigilantism does not take place. The Court directed the states to take **Preventive, Punitive and Remedial Measures** to prevent lynching incidents in the future.
2. That it is humbly submitted that little has been done by the state of Jharkhand to prevent violence continue in the state. On 12th March, 2019, Vakil Khan of Haidernagar, Palamu District, Jharkhand, was beaten to death by a mob when he protested against some girls of his village being molested by boys from a neighbouring village.

A web copy of the news article titled “*Jharkhand: Man beaten to death by sister’s harassers, brother in hospital*” of dated 13.03.2019 reported in The Indian Express is attached herewith and marked as **Annexure-1** forming a part of Writ Application.

1. That it is submitted that on 10-11th April, 2019, a mob in Gumla district Lynched a tribal man and injured three others for allegedly cutting a dead Ox. The man who was killed was identified as Prakash Lakra.

A web copy of the news article titled “*Jharkhand: Old ox dies, mob kills man, three injured are booked for bovine slaughter*” dated 17.04.2019 reported in The Indian Express is attached herewith and marked as **Annexure-2** forming a part of Writ Application.

1. That it is humbly submitted that there has been no broadcasting on radio and television and other media platforms or on official websites of the Home Department and the Jharkhand Police that mob violence and lynching shall invite serious consequences as per the Preventive Measures given in *Tehseen Poonawalla v Union of India*[WP(C) 754/2016].
2. That it is humbly submitted that in accordance with the Remedial Measures given in *Tehseen Poonawalla v Union of India* [WP(C) 754/2016], in case a lynching takes place it would be the duty of the Station House Officer in whose police station such FIR is registered to forthwith intimate the Nodal Officer in the district who shall, in turn, ensure that there is no further harassment of the family members of the victim. However in the abovementioned lynching of Vakil Khan, the police have provided no such support to the family members, but in fact have shielded the people responsible for the lynching.
3. That it is humbly submitted that in the table given above, there are instances of cases where the compensation has not been provided to the victim families in cases of such mob violence in compliance of the directions made in above noted case.
4. That it is humbly submitted that in accordance with the Remedial Measures given in *Tehseen Poonawalla v Union of India* [WP(C)754/2016], cases of lynching and mob violence shall be specifically tried by designated court/Fast Track Courts earmarked for that purpose in each district and such courts shall hold trial of the case on a day to day basis. That it was also directed that the trial shall preferably be concluded within six months from the date of taking cognizance. However in the abovementioned table of cases shows that no cases are being tried in the fast-track courts except one.
5. That the State of Jharkhand last seen largest number of lynching deaths in recent years, even though it has not implemented the order of Hon’ble Supreme Court. The said order not only talks about the Preventive and Remedial measures but also Punitive measures which also fixed the accountability of government officials. The relevant paragraph of the said judgment is reproduced below;

*“40. In view of the aforesaid, we proceed to issue the following guidelines:-*

***A. Preventive Measures***

*(i) The State Governments shall designate, a senior police officer, not below the rank of Superintendent of Police, as Nodal Officer in each district. Such Nodal Officer shall be assisted by one of the DSP rank officers in the district for taking measures to prevent incidents of mob violence and lynching. They shall constitute a special task force so as to procure intelligence reports about the people who are likely to commit such crimes or who are involved in spreading hate speeches, provocative statements and fake news.*

*(ii) The State Governments shall forthwith identify Districts,Sub-Divisions and/or Villages where instances of lynching and mob violence have been reported in the recent past, say, in the last five years. The process of identification should be done within a period of three weeks from the date of this judgment, as such time period is sufficient to get the task done in today's fast world of data collection.*

*(iii) The Secretary, Home Department of the concerned States shall issue directives/advisories to the Nodal Officers of the concerned districts for ensuring that the Officer In-charge of the Police Stations of the identified areas are extra cautious if any instance of mob violence within their jurisdiction comes to their notice.*

*(iv) The Nodal Officer, so designated, shall hold regular meetings (at least once a month) with the local intelligence units in the district along with all Station House Officers of the district so as to identify the existence of the tendencies of vigilantism, mob violence or lynching in the district and take steps to prohibit instances of dissemination of offensive material through different social media platforms or any other*

*means for inciting such tendencies. The Nodal Officer shall also make efforts to eradicate hostile environment against any community or caste which is targeted in such incidents.*

*(v) The Director General of Police/the Secretary, Home Department of the concerned States shall take regular review meetings (at least once a quarter) with all the Nodal Officers and State Police Intelligence heads. The Nodal Officers shall bring to the notice of the DGP any inter-district co-ordination issues for devising a strategy to tackle lynching and mob violence related issues at the State level.*

*(vi) It shall be the duty of every police officer to cause a mob to disperse, by exercising his power under Section 129 of CrPC, which, in his opinion, has a tendency to cause violence or wreak the havoc of lynching in the disguise of vigilantism or otherwise.*

*(vii) The Home Department of the Government of India must take initiative and work in co-ordination with the State Governments for sensitising the law enforcement agencies and by involving all the stake holders to identify the measures for prevention of mob violence and lynching against any caste or community and to implement the constitutional goal of social justice and the Rule of Law.*

*(viii) The Director General of Police shall issue a circular to the Superintendents of Police with regard to police patrolling in the sensitive areas keeping in view the incidents of the past and the intelligence obtained by the office of the Director General. It singularly means that there should be seriousness in patrolling so that the anti-social elements involved in such crimes are discouraged and remain within the boundaries of law thus fearing to even think of taking the law into their own hands.*

*(ix) The Central and the State Governments should broadcast on radio and television and other media platforms including the official websites of the Home Department and Police of the States that lynching and mob violence of any kind shall invite serious consequence under the law.*

*(x) It shall be the duty of the Central Government as well as the State Governments to take steps to curb and stop dissemination of irresponsible and explosive messages, videos and other material on various social media platforms which have a tendency to incite mob violence and lynching of any kind.*

*(xi) The police shall cause to register FIR under Section 153A of IPC and/or other relevant provisions of law against persons who disseminate irresponsible and explosive messages and videos having content which is likely to incite mob violence and lynching of any kind.*

*(xii) The Central Government shall also issue appropriate directions/advisories to the State Governments which would reflect the gravity and seriousness of the situation and the measures to be taken.*

***B. Remedial Measures***

*(i) Despite the preventive measures taken by the State Police, if it comes to the notice of the local police that an incident of lynching or mob violence has taken place, the jurisdictional police station shall immediately cause to lodge an FIR, without any undue delay, under the relevant provisions of IPC and/or other provisions of law.*

*(ii) It shall be the duty of the Station House Officer, in whose police station such FIR is registered, to forthwith intimate the Nodal Officer in the district who shall, in turn, ensure that there is no further harassment of the family members of the victim(s).*

*(iii) Investigation in such offences shall be personally monitored by the Nodal Officer who shall be duty bound to ensure that the investigation is carried out effectively and the charge-sheet in such cases is filed within the statutory period from the date of registration of the FIR or arrest of the accused, as the case may be.*

*(iv) The State Governments shall prepare a lynching/mob violence victim compensation scheme in the light of the provisions of Section 357A of CrPC within one month from the date of this judgment. In the said scheme for computation of compensation, the State Governments shall give due regard to the nature of bodily injury, psychological injury and loss of earnings including loss of opportunities of employment and education and expenses incurred on account of legal and medical expenses. The said compensation scheme must also have a provision for interim relief to be paid to the victim(s) or to the next of kin of the deceased within a period of thirty days of the incident of mob violence/lynching.*

*(v) The cases of lynching and mob violence shall be specifically tried by designated court/Fast Track Courts earmarked for that purpose in each district. Such courts shall hold trial of the case on a day to day basis. The trial shall preferably be concluded within six months from the date of taking cognizance. We may hasten to add that this direction shall apply to even pending cases. The District Judge shall assign those cases as far as possible to one jurisdictional court so as to ensure expeditious disposal thereof. It shall be the duty of the State Governments and the Nodal Officers in particular to see that the prosecuting agency strictly carries out its role in appropriate furtherance ofthe trial.*

*(vi) To set a stern example in cases of mob violence and lynching, upon conviction of the accused person(s), the trial court must ordinarily award maximum sentence as provided for various offences under the provisions of the IPC.*

*(vii) The courts trying the cases of mob violence and lynching may, on application by a witness or by the public prosecutor in relation to such witness or on its own motion, take such measures, as it deems fit, for protection and for concealing the identity and address of the witness.*

*(viii) The victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall be given timely notice of any court proceedings and he/she shall be entitled to be heard at the trial in respect of applications such as bail, discharge, release and parole filed by the accused persons. They shall also have the right to file written submissions on conviction, acquittal or sentencing.*

*(ix) The victim(s) or the next of kin of the deceased in cases of mob violence and lynching shall receive free legal aid if he or she so chooses and engage any advocate of his/her choice from amongst those enrolled in the legal aid panel under the Legal Services Authorities Act, 1987.*

*C. Punitive Measures*

*(i) Wherever it is found that a police officer or an officer of the district administration has failed to comply with the aforesaid directions in order to prevent and/or investigate and/or facilitate expeditious trial of any crime of mob violence and lynching, the same shall be considered as an act of deliberate negligence and/or misconduct for which appropriate action must be taken against him/her and not limited to departmental action under the service rules. The departmental action shall be taken to its logical conclusion preferably within six months by the authority of the first instance.*

*(ii) In terms of the ruling of this Court in Arumugam Servai v. State of Tamil Nadu, the States are directed to take disciplinary action against the concerned officials if it is found that (i) such official(s) did not prevent the incident, despite having prior knowledge of it, or (ii) where the incident has already occurred, such official(s) did not promptly apprehend and institute criminal proceedings against the culprits.*

*41. The measures that are directed to be taken have to be carried out within four weeks by the Central and the State Governments. Reports of compliance be filed within the said period before the Registry of this Court.*

*42. We may emphatically note that it is axiomatic that it is the duty of the State to ensure that the machinery of law and order functions efficiently and effectively in maintaining peace so as to preserve our quintessentially secular ethos and pluralistic social fabric in a democratic set-up governed by rule of law. In times of chaos and anarchy, the State has to act positively and responsibly to safeguard and secure the constitutional promises to its citizens. The horrendous acts of mobocracy cannot be permitted to inundate the law of the land. Earnest action and concrete steps have to be taken to protect the citizens from the recurrent pattern of violence which cannot be allowed to become “the new normal”. The State cannot turn a deaf ear to the growing rumblings of its People, since its concern, to quote Woodrow Wilson, “must ring with the voices of the people.” The exigencies of the situation require us to sound a clarion call for earnest action to strengthen our inclusive and all-embracing social order which would, in turn, reaffirm the constitutional faith. We expect nothing more and nothing less.*

*43. Apart from the directions we have given hereinbefore and what we have expressed, we think it appropriate to recommend to the legislature, that is, the Parliament, to create a separate offence for lynching and provide adequate punishment for the same. We have said so as a special law in this field would instill a sense of fear for law amongst the people who involve themselves in such kinds of activities. There can be no trace of doubt that fear of law and veneration for the command of law constitute the foundation of a civilized society.”*

1. That public officials must be held accountable for the dereliction of duty for non-compliance with Supreme Court orders by not taking action to prevent vigilante groups from inflicting violence against citizens of the country and taking the laws into their own hands. In the case of ***Dayal Singh v. State of Uttaranchal* [(2012)8 SCC 263]** it was held that:

***“26.****This results in shifting of avoidable burden and exercise of higher degree of caution and care on the courts.* ***Dereliction of duty or carelessness is an abuse of discretion under a definite law and misconduct is a violation of indefinite law. Misconduct is a forbidden act whereas dereliction of duty is the forbidden quality of an act and is necessarily indefinite. One is a transgression of some established and definite rule of action, with least element of discretion, while the other is primarily an abuse of discretion.*** *This Court in State of Punjab v. Ram Singh [(1992) 4 SCC 54 : 1992 SCC (L&S) 793 : (1992) 21 ATC 435] stated that the ambit of these expressions had to be construed with reference to the subject-matter and the context where the term occurs, regard being given to the scope of the statute and the public purpose it seeks to serve. The police service is a disciplined service and it requires maintenance of strict discipline. The*

*consequences of these defaults should normally be attributable to negligence. Police officers and doctors, by their profession, are required to maintain duty decorum of high standards. The standards of investigation and the prestige of the profession are dependent upon the action of such specialised persons. The Police Manual and even the provisions of CrPC require the investigation to be conducted in a particular manner and method which, in our opinion, stands clearly violated in the present case. Dr C.N. Tewari, not only breached the requirement of adherence to professional standards but also became instrumental in preparing a document which, ex facie, was incorrect and stood falsified by the unimpeachable evidence of the eyewitnesses placed by the prosecution on record. Also, in the same case, the Court, while referring to the decision in Awadh Bihari*

*Yadav v. State of Bihar [(1995) 6 SCC 31] noticed that if primacy is given to such designed or negligent investigation, to the omission or lapses by perfunctory investigation or omissions, the faith and confidence of the people would be shaken not only in the law enforcement agency but also in the administration of justice.”*

***“47.5.****We hold, declare and direct that it shall be appropriate exercise of jurisdiction as well as ensuring just and fair investigation and trial that courts return a specific finding in such cases, upon recording of reasons as to deliberate dereliction of duty, designedly defective investigation, intentional acts of omission and commission prejudicial to the case of the prosecution, in breach of professional standards and investigative requirements of law, during the course of the investigation by the investigating agency, expert witnesses and even the witnesses cited by the prosecution.* ***Further, the courts would be fully justified in directing the disciplinary authorities to take appropriate disciplinary or other action in accordance with law, whether such officer, expert or employee witness, is in service or has since retired.”***

1. That such dereliction of duty must be met with disciplinary action directed by this Court. In the case of **Research Foundation for Science v. Union of India [(2014) 16 SCC 577]** it was held that:

***“10.****Mr Khanna, learned Additional Solicitor General in fact tried to take a little advantage from this paragraph by contending that the Monitoring Committee was supposed to file a report and thereafter directions were expected from the Court. We are not prepared to buy this submission of Mr Khanna. Prima facie*

*there is a complete dereliction on the part of the officers concerned in not taking any action when these containers were lying in the JNPT area for years together. In fact they have been imported/bought from 1992 onwards. No orders of the court are required for incineration or deciding the responsibility for the authorities. It is only because the authorities concerned do not act in time that when some individual or organisation interested in public cause, bring this issue to the notice of the court, the court has to give necessary directions. Merely because the court has stated in the aforesaid paragraph that the report be filed, does not mean that the governmental authorities are not expected to act otherwise.”*

***“14.****Having noted this, the only course available for us is to direct an appropriate inquiry so as to take cognizance of dereliction on the part of the officers concerned and, if satisfied, decide about the disciplinary and other measures. After having a word with Mr Khanna, learned Additional Solicitor General who also had a word with the officers, we appoint a Committee consisting of (a) Joint Director (Customs), Department of Revenue and Finance; (b) Director, Ministry of Environment and Forests; and (c) Director, Ministry of Shipping, to hold appropriate inquiry to ascertain as to who were the officers from these three Ministries who were responsible for not taking necessary steps for all these years and if satisfied that there is dereliction on the part of some of the officers, initiating the disciplinary measures/appropriate actions in accordance with law.”*

1. That the Supreme Court in the case of Tehseen Poonwalla v Union of India has stated that the State has the sacrosanct duty to protect its citizens from unruly elements and perpetrators of orchestrated lynching and vigilantism. The Court directed the states to take preventive, punitive and remedial measures to prevent lynching incidents. However there has been non-compliance of these directions. Article 129 and 215 of the Constitution and Section 12 of the Contempt of Courts Act 1971 requires orders of the Court to be mandatorily followed. In the case of ***Maninderjit Singh Bitta v. Union of India [(2012) 4 SCC 568]*** it was held as follows:

**“*7.****However, with some regret, we noticed that still a few States had not complied with the directions of this Court and the casual attitude of the State Government of these States was obvious from their very conduct, inside and outside the Court. This attitude compelled us to pass a very detailed order on 30-8-2011 [Maninderjit Singh Bitta v. Union of India, (2011) 14 SCC 273], classifying the States into different categories. The first category of the States had taken steps and even awarded the contract for supplying HSRP. The second category was of the States/UTs which had not followed the correct procedure for selection and had approved all private vendors, with “Type Approval Certificate” (TAC) from the Central Government, to affix the “HSRP” at their own premises or at the office of the RTO. The third category was of the defaulting States who had filed affidavits, assuring the Court of taking steps and finalising the tender allotment within the specified dates. On the basis of the affidavits filed by them, they were granted further time and were required to file affidavits of compliance.”*

1. *That*in the case of **Priya Gupta v. Ministry of Health & Family Welfare [(2013)11 SCC 404]** the Court held as follows:

**“*21.****These directions are intended to serve a greater public purpose and are expected to be within the knowledge of all persons concerned besides the fact that the law declared by this Court is deemed to be known to all concerned. The violation of general directions issued by this Court would attract the rigours of the provisions of the Act. Whether for such violation or non-compliance, the Court would punish a person or persons, would always depend upon the facts and circumstances of a given case. It is not possible to provide any straitjacket formula that is universally applicable to all cases. All that we have to examine is whether the apology tendered is bona fide, when examined in the light of the attendant circumstances and that it will be in the interest of justice to accept the same.*

***26.****As already noticed, contempt proceedings are intended to ensure compliance with the orders of the court and adherence to the rule of law. The directions are binding and must be obeyed by the parties and all concerned stricto sensu. In fact, the directions of the present kind are to be placed at a higher pedestal as compared to cases where the matter is inter se between two parties to the lis as they are intended to attain a greater purpose and ensure adherence to the rule of law in a particular process which otherwise would be arbitrary and violative of constitutional mandate.”*

1. That it is submitted that in the case of ***State of Bihar v. Subhash Singh [(1997)4 SCC 430]*** it was held by the Court***:***

***“4.****The constitutional courts exercise their power of judicial review with constraint to ensure that the authorities on whom the power is entrusted under the rule of law or confided, is discharged truly, objectively, expeditiously for the purpose for which substantive acts/results are intended. The petitioner being a member of the permanent executive, is enjoined to comply with the orders of the court passed in exercise of the judicial review. On an earlier occasion, while disposing of the writ petition, the High Court had directed the respondent to consider the case of the writ petitioner and to dispose it of with reasoned order within two months. Obviously, the High Court expected that the authorities would discharge their duties expeditiously as enjoined under the rules and as per the directions. Since they did not discharge the duty, necessarily, they were required to give explanation to the court as to the circumstances in which they could not comply with the direction issued by the court or if there was any unavoidable delay, they should have sought further time for compliance. Unfortunately, neither of the steps have been taken by the officer in that regard. Therefore, the High Court was constrained to impose the costs personally against him for non-compliance of the order.”*

1. That it is submitted that the role of the administration to ensure access to justice for victims of mob violence and such justice must be carried out in an effective manner. In the case of *Daroga Singh v. B.K. Pandey, [(2004) 5 SCC 26]* the Court passed a judgement relating to an incident whereby police officials attacked an Additional District and Sessions Judge in his courtroom in the State of Bihar. It was held as follows:

***“33.****We do not find any fault in the procedure adopted by the High Court in conducting the proceedings in the present case. For the survival of the rule of law the orders of the courts have to be obeyed and continue to be obeyed unless overturned, modified or stayed by the appellate or revisional courts. The court does not have any agency of its own to enforce its orders. The executive authority of the State has to come to the aid of the party seeking implementation of the court orders. The might of the State must stand behind the court orders for the survival of the rule of the court in the country. Incidents which undermine the dignity of the courts should be condemned and dealt with swiftly. When a judge is attacked and assaulted in his courtroom and chambers by persons on whose shoulders lay the obligation of maintaining law and order and protecting the citizen against any unlawful act, it needs to be condemned in the severest of terms. If the judiciary has to perform its duties and functions in a fair and free manner, the dignity and the authority of the courts has to be respected and maintained at all stages and by all concerned failing which the very constitutional scheme and public faith in the judiciary runs the risk of being lost.”*

1. That in the case of **E.T. Sunup v C.A.N.S.S. Employees Association and Anr [(2004) 8 SCC 683]** the following was held:

***“16.****It has become a tendency with the government officers to somehow or the other circumvent the orders of court and try to take recourse to one justification or other. This shows complete lack of grace in accepting the orders of the Court. This tendency of undermining the Court's order cannot be countenanced. This Court time and again has emphasised that in a democracy the role of the court cannot be subservient to administrative fiat. The executive and legislature have to work within the constitutional framework and the judiciary has been given the role of watchdog to keep the legislature and executive within check. In the present case, we fail to understand the counter filed by the appellant before the Court. On one hand they say that all the cases of GPF have been processed and on the other hand they are not prepared to revoke the administrative order. This only shows a deliberate attempt on the part of the bureaucracy to circumvent the order of the Court and stick to their stand. This is clear violation of the Court's order and the appellant is guilty of flouting the Court's order.*

***18.****While coming to the question of sentence, learned counsel for the appellant submitted that the incumbent is on the verge of retirement and he has suffered a lot and he has an unblemished career of 30 years of service. More so now order dated 25-2-1997 has been revoked though belatedly, therefore mercy be shown to him and his apology may be accepted. But if the Court's orders are flouted like this, then people will lose faith in the courts. Therefore, it is necessary to deal*

*with such type of violation of the Court's order with strong hands and to convey to the authorities that the courts are not going to take things lightly. However, looking to the long career of this officer and now that the order has been revoked, we do not propose to punish him with imprisonment but we propose to impose a fine of Rs 5000 (Rupees five thousand) only and in default of payment of fine, to undergo simple imprisonment for one month. The incumbent shall deposit the amount in the State Treasury within one month from today.”*

1. That the families of the victims of such acts of blatant violence must be compensated by the state in light of the judgement of the Supreme Court in ***Tehseen Poonawalla v. Union of India*** [WP(C)754/2016]. That the state cannot shy away from compensating the victims or the families of the victims of such targeted violence and lynchings.
2. That on dated 23/04/2019 the Petitioner has sent a representation to Respondent no. 1 (Chief Secretary) requesting therein to comply with the said judgment but no step has been taken.

Photo copy of the representation of dated 23.04.2019 along with postal receipt is being attached herewith and marked as **Annexure-3** forming a part of Writ Application.

1. That the act of mob lynching has directly challenged the authority of ***“Rule of Law of this Country.*** Further Hon’ble Supreme Court in the case of *Tehseen Poonawalla v. Union of India* has described the incident of lynchings as ***‘Horrendous Acts of Mobocracy’.*** and passed directions to deal with incidents of mob lynching, but the Respondents have failed to comply with the Judgment.
2. That to stop such incidents the Respondents should be directed to deal it with iron hands and punish the perpetrators by trying them in specially designated courts to try such cases (As directed by Hon’ble Supreme Court).
3. That this Petition seeking compliance of the directions of the Hon’ble Supreme Court of India, since the Petitioner has no alternate efficacious remedy but to approach this Hon’ble Court under Article 226 of the Constitution of India for the reliefs prayed for herein.
4. That the Petitioner has not moved earlier for the same relief as prayed in this Public Interest Litigation.
5. That the cause of action for filing this public interest litigation has arisen within the territorial jurisdiction of this Hon’ble court.
6. That this application is being made bonafide and in the interest of justice for the public at large especially the economically and socially weaker section of the society.

It is, therefore prayed that your Lordship may graciously be pleased to issue an appropriate writ(s)/ order(s)/ direction(s) for following relief(s):-

1. For a writ in the nature of Mandamus directing upon the State of Jharkhand to prepare a lynching/mob violence victim compensation scheme in the light of the provisions of Section 357A of CrPC and in the said scheme for computation of compensation, the Respondent should give due regard to the nature of bodily injury, psychological injury and loss of earnings including loss of opportunities of employment and education and expenses incurred on account of legal and medical expenses, as directed by ***Hon’ble Supreme Court Tehseen Poonawalla vs Union of India***.
2. For a writ in the nature of Mandamus directing upon the State of Jharkhand request the authority concerned to issues notification/direction/guidelines to designate a court in each districts to try the lynching cases on day to day basis and conclude the trial within 6 months from the date of cognizance as directed by the ***Hon’ble Supreme Court*** in the ***Tehseen Poonawalla vs Union of India***.
3. For a writ in the nature of Mandamus directing upon the State of Jharkhand to broadcast on television, radio and other media platforms and also on official websites of the Home Department and the Jharkhand Police that mob violence and lynching shall invite serious consequences as per the Preventive Measures given by ***Hon'ble Supreme Court in Tehseen Poonawalla vs Union of India***.
4. For a writ in the nature of Mandamus directing upon the State of Jharkhand to strictly comply with the **Preventive, Remedial** and **Punitive Measures** as directed by the Hon’ble Supreme Court of India in ***Tehseen Poonawalla vs Union of India***.
5. For a writ in the nature of Mandamus directing upon the State of Jharkhand to ensure that all families of Lynching victim receive commensurate compensation as prescribed by the Hon’ble Supreme Court of India in ***Tehseen Poonawalla v Union of India*** [WP(C)754/2016].
6. Pass any such other orders as may be deemed fit in the facts and circumstances of this case.

And for this act of kindness petitioner is duty bound and shall ever pray.