

THE SUPREME COURT OF INDIA
(CIVIL ORIGINAL JURISDICTION)
WRIT PETITION [CIVIL] NO. 580 OF 2020

IN THE MATTER OF:

Red Dot Foundation,

A Private not-for-profit Section 8 Company

Represented through its CEO,

Elsa Marie D' Silva, aged 46,

daughter of Edwin D'Silva

Having its Registered Office at:

No.7, Sea View Four Bungalows Versova,

Andheri, Mumbai (W) – 400053

...Petitioner

Versus

1. Union of India
Through its Principal Secretary
Prime Minister's Office, Yojana Bhavan,
Sansad Marg, New Delhi – 110001
 2. Ministry of Home Affairs
Through its Secretary,
North Block, Cabinet Secretariat, Raisina Hill,
New Delhi – 110001
 3. Ministry of Women and Child Development,
Through its Secretary,
Shastri Bhawan, New Delhi
 4. National Commission for Women,
Through its Registrar,
Plot-21, Jasola Institutional Area,
New Delhi – 110025
 5. National Commission for Protection of Child Rights
Through its Registrar
5th Floor, Chanderlok Building,
36 Janpath, New Delhi-110001
- ... Respondents

WRIT PETITION UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA FOR ENFORCEMENT IN PUBLIC INTEREST OF THE FUNDAMENTAL RIGHTS GUARANTEED UNDER PART – III OF THE CONSTITUTION & ISSUANCE OF A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT FOR PROTECTION AND REMEDIES FOR WOMEN AND CHILD VICTIMS OF DOMESTIC VIOLENCE DURING THE COVID-19 PANDEMIC AND THEREAFTER.

To,

THE HON'BLE CHIEF JUSTICE OF INDIA,

AND HIS COMPANION JUSTICES OF

THE SUPREME COURT OF INDIA.

THE PETITION OF THE PETITIONER ABOVENAMED

MOST RESPECTFULLY SHOWETH:

1. The Petitioner, a not for profit organisation, working in the field of women and child safety, gender equality and safe spaces through its flagship initiative of Safecity.in, is filing this Writ Petition under Article 32 of the Constitution of India, seeking protection and justice for women and child victims of domestic violence and sexual abuse during the present Corona Virus (COVID19) lockdown and thereafter. The Petitioner seeks intervention of this Hon'ble Court, as there are no other alternative or effective means for seeking redress for such victims and these victims due to circumstances such as the COVID19 lockdown and absence of means of communications are deprived of their rightful remedies in law.

2. The global pandemic of COVID-19 resulted in mandatory lockdowns in many countries including India, where the lockdown came into effect on March 23, 2020 and which has been extended several times and subsists till date, as only some relaxation is extended till end of June 2020, as of now. It is not clear when the pandemic will clear and lives will revert to normalcy and the possibility of limited movement even post June 2020 cannot be ruled out.
 - a. One of the serious harms that is globally recognised due to the lockdown is that which women and children suffer with being locked down in the same home, as their tormentors. The little leeway such victims had to seek justice was effectively also locked down. The protective measure that was mandated due to the pandemic has and will continue to be a nemesis for these hapless victims of domestic violence and sexual abuse. Homes, which are considered "safe spaces" for protecting against the virus are crime traps for women and child victims of domestic violence and sexual abuse, both of which have been on the increase during this phase. In order to effectively combat the situation and to make homes 'safe zones', special measures need to be implemented including a declaration of domestic violence as "essential services", as has been done by the European Union and it is imperative that the Government take steps through the Respondents, to provide immediate relief to women and children through more inclusive processes. Hereto annexed and marked as **Annexure P/1 [Pg. 36 - 42]**,

is the Guidelines of MHA on Essential Services in View of Covid-19 Outbreak Crisis and National Lockdown dated 24.03.2020.

3. That the Petitioner is a public-spirited organization and is filing the preset Public Interest Petition seeking issuance of specific guidelines and/or directions to cure the lacunae in justice delivery to these hapless victims, who have, due to the lockdown, been placed in a more precarious and enhanced danger of being locked into homes with predators and culprits. The Petitioner seeks sustainable remedies, which are not just for the present COVID19 lockdown but for normal times also, as India tops the list in violence against women and children and existing mechanisms have proven insufficient.

ARRAY OF PARTIES:

2. That this Public Interest Litigation is filed by '**Red Dot Foundation**', which is a "Not-for-profit" organization registered under Section 8 of the Companies Act, 1956 and incorporated on 3rd November 2014, having CIN U93000MH2014NPL259081.
3. The Petitioner was established with a primary focus to end violence against women and girls using crowd sourced data, community engagement and institutional accountability. The Petitioner works at the intersection of gender, technology, communications, data and urban planning. Through the Petitioner's flagship program, Safecity, it crowd-sources personal stories of sexual harassment and abuse in public spaces and aggregates it, as hotspots on a map indicating trends at a local level to make the data useful for individuals, local communities

and local administration to identify factors that cause behaviour that leads to violence and work on strategies for solutions.

4. The Petitioner commenced an initiative during COVID19 titled 'Safe Circle', a weekly session to provide a platform for victims of domestic violence to reach out for succor. The Petitioner has also started another session for 'Community Enablers' to prepare general public to become a 'support network' and work with authorities to prevent domestic violence. The Petitioner has been involved in several gender parity webinars and sessions during COVID19, including persons working in the field of sexual and domestic violence and is filing the present Writ Petition seeking remedies for victims, in the light of the details that surfaced through such interactions and news reports, including the abject absence of effective communication means for women; the lack of an outreach program for sexual abuse victims including children to seek remedies; inability of victims to even leave homes or seek removal of their tormentors and predators from the same roof as the victims, given the restrictions during lockdown; their inability to reach out for protection when mobility and movement outside homes is impermissible; not just that the lockdown mandated no movement but that the victims lost their ability to even make excuses to step out to give complaints or seek help.
5. In April 2020, recognizing the seriousness of the plight of women and children, the UN chief António Guterres called for a "ceasefire" on the "horrifying global surge in domestic violence" towards women and girls, during COVID-19 pandemic lockdowns. The article reporting the above is titled "*UN chief calls for domestic*

violence 'ceasefire' amid 'horrifying global surge' published by the UD dated 06.04.2020 (available at <https://news.un.org/en/story/2020/04/1061052>) is hereto annexed and marked as **Annexure P/2 [Pg. 43 - 47]**. The UN statement also notes and refers to the report of the World Health Organisation ("**WHO**"), on violence against women. The WHO Report published in 2013 Titled "*Global and regional estimates of violence against women*" report findings disclose worrisome statistics including that 30% of the world's women population and in some regions 38% have experienced physical or sexual violence by intimate partner and that 38% of murders of women globally are by intimate partners.

6. That this is a global issue is highlighted by the New York times article titled "*A New Covid-19 Crisis: Domestic Abuse Rises Worldwide*" (Source: [https:// www.nytimes.com /2020/04/06 /world/ coronavirus-domestic-violence.html](https://www.nytimes.com/2020/04/06/world/coronavirus-domestic-violence.html)), dated 06.04.2020 which is hereto annexed and marked as **Annexure P/3 [Pg. 48 - 53]**.
7. The Petitioner submits that whilst a lot of steps were taken including by Respondent No. 4, the exponential increase in domestic violence and sexual abuse cases, as opposed to the number of cases handled reflects the inadequacy of existing remedial measures. Some of the news reports that reflect the present situation are listed hereunder:
 - a. "*India's Domestic Abuse Survivors are in Lockdown with their Monsters, But Helplines Are Not Ringing.pdf*" dated 06.04.2020 (Source: [https://www.news18.com/news/buzz/](https://www.news18.com/news/buzz/indias-) [indias-](https://www.news18.com/news/buzz/indias-)

[domestic-abuse-survivors-are-in-lockdown-with-their-monsters-but-the-helplines-are-not-ringing-2563955.html](https://www.outlookindia.com/website/story/india-news-rise-in-domestic-violence-across-all-strata-of-society-in-the-coronavirus-lockdown-period/350249)) hereto annexed and marked as **Annexure P/4 [Pg. 54 - 63]**;

- b. "Domestic Violence Cases Across India Swell Since Coronavirus Lockdown" (Source: [https:// www. outlookindia. com/ website/story/india-news-rise-in-domestic -violence-across-all-strata-of-society-in-the-coronavirus-lockdown -period/350249](https://www.outlookindia.com/website/story/india-news-rise-in-domestic-violence-across-all-strata-of-society-in-the-coronavirus-lockdown-period/350249)) dated 07.04.2020 hereto annexed and marked as **Annexure P/5 [Pg. 64 - 67]**;
- c. "Trapped with An Abuser: Coronavirus Lockdown See a Rise In Domestic Abuse" (Source: <https://news.abplive.com/news/india/coronavirus-lockdown-causes-rise-in-domestic-violence-covid-19-1193795>) dated 09.04.2020 hereto annexed and marked as **Annexure P/6 [Pg. 68 - 69]**

8. The victims need simpler and easily accessible alternatives and speedy and effective justice; there is need for better sensitization of police and judiciary to the needs of such victims; alternative methodologies for bridging the gap, which is more like a wide chasm presently, between the victims of domestic violence and sexual abuse and justice delivery mechanisms. The Petitioner seeks reliefs more fully set out hereunder to enforce the fundamental rights of the citizens and victims to life and equality and dignity guaranteed *inter alia* under Articles 14 and 21 of the Constitution of India. The Petitioner apprehends that the present situation highlighted by COVID19 lockdown is merely an enhanced reflection of everyday reality for victims and that the problem is not just of COVID19 lockdown or temporary but a long-term deep-rooted malaise requiring sustainable remedies and alternatives. It

is therefore just, imperative and necessary that this Hon'ble Court intervenes and ensures easy reach of justice to such victims.

9. The Petitioner does not have any personal interest and / or any personal gain or private motive or any other reason for filing of the Writ Petition in Public Interest. The Petitioner states that it has not been involved in any other Civil or Criminal litigation which would affect the outcome or prejudice the outcome of the present Petition.
10. It is submitted that the present Petition has been filed seeking issuance of guidelines from this Hon'ble Court for institutional accountability to ensure effective protection of the rights of victims of domestic violence and sexual offences (more specifically women and children) during the present lockdown due to the COVID-19 pandemic and thereafter, as the Petitioner seeks directions, which will help victims not just during the pandemic and consequent lockdown or limited mobility but also during normal times.
11. The Respondent No. 1 is the Union of India, represented by Ministry of Home Affairs.
12. The Respondent No. 2 is the Ministry of Home Affairs, being the ministry being responsible for the maintenance of internal security and domestic policy and law and order.
13. The Respondent No. 3 is the Ministry of Women and Child Development, which was constituted with the intention of addressing gaps in State action for women and children for promoting inter-Ministerial and inter-sectoral convergence to

create gender equitable and child-centered legislation, policies and programmes.

14. The Respondent No. 4 is the National Commission for Women ("**NCW**"), which is a statutory body under the National Commission for Women Act, 1990 (Act No.20 of 1990 of Govt.of India) set up to review the Constitutional and legal safeguards for women; recommend remedial legislative measures, facilitate redressal of grievances and advise the Government on all policy matters affecting women.
15. The Respondent No. 5 is the National Commission for Protection of Child Rights ("**NCPCR**"), was set up in March 2007 and is a statutory body under the Commissions for Protection of Child Rights ("**CPCR**") Act, 2005, an Act of Parliament (December 2005) under the administrative control of the Ministry of Women & Child Development, Government of India. The Commission's Mandate is to ensure that all Laws, Policies, Programmes, and Administrative Mechanisms are in consonance with the Child Rights perspective as enshrined in the Constitution of India and also the United Nations Convention on the Rights of the Child.
16. All the Respondents referred to hereinabove are from Ministries of Government under Article 12 of the Constitution of India and / or authorities set up by and functioning under Indian Government ministries and are hence amenable to Writ Jurisdiction under Article 32 of the Constitution.
17. That the reliefs sought for in this Petition, are required to be implemented by Government Ministries / authorities.

FACTS OF THE CASE:

18. The brief facts and circumstances leading to the filing of the present Writ Petition in public interest are, as hereunder:
 - a. The Petitioner is a civic and social organisation having the aim to make city spaces safer by encouraging equal access to public spaces for everyone, especially women, through the use of data, engagement and awareness. That the Petitioner is a firm believer that the Constitutional guarantees of life and liberty, justice and equality for all persons ought to manifest in action. While the Petitioner is based in the city of Mumbai, the Petitioner engages in initiatives throughout India and globally. The Petitioner engages with other women's and privacy rights groups at the local, national and international levels to extend their vision and to encourage a safer space at a holistic level. The Petitioner is also engaged with various Indian Government authorities in combating violence against women and children.
 - b. The Petitioner seeks the remedies in particular of life, liberty, dignity, safety and security and equal access to justice guaranteed *inter alia* under Article 21 and 14, which have been deprived to women and children victims of domestic violence and sexual abuse. The lockdown imposed due to COVID-19 has presented innumerable unforeseen challenges in terms of human rights including safety and health rights of women and children. With the implementation of the mandatory lockdown from 24.03.2020, there has been an exponential increase in cases of violence against women and children the world over.

- c. The Petition has been filed in light of the ongoing and increasing number of offences and incidents, more specifically domestic violence and sexual offences, including domestic abuse, rape, sexual offences, stalking, harassment, child abuse etc., during the current pandemic, numerous complaints of which go unregistered and uninvestigated and victims have been deprived of redress.
- d. That domestic violence is an epidemic, which has consistently and exponentially grown and impacts increasing number of victims is confirmed by the Ministry of Women and Child Development, Government of India, New Delhi, in its Study of March 2017 titled "*Tackling Violence Against Women: A Study of State Intervention Measures*" affirms that *30.8% cases, 'homes are the most prevalent place of violence against women'*. The study not only provides statistics but also reality checks from different perspectives. The Study Report also sets out suggestions for alleviating the plight of victims. To the Petitioner's understanding these suggestions remain to be implemented.
- e. Reports also indicate the increase in incidents of child abuse during COVID19. A Deccan Chronicle article titled "*Violence against children on the rise during lockdown*" (Source: <https://www.deccanchronicle.com/nation/in-other-news/120420/violence-against-children-on-the-rise-during-lockdown.html>) dated 12.04.2019 is hereto annexed and

marked as **Annexures P/7 [Pg. 70 - 73]**. The Feminism India Article titled "*Children In COVID-19 Lockdown: Abusive Households And Street Children*" speaks of how the majority of India's huge population of 472 million children may be victims in unsafe homes. The article emphasizes that "*Control by abusers is often exerted on a victim by isolating them from family and friends, the lockdown makes the task much easier.*" (Source: <https://feminisminindia.com/2020/04/15/children-covid-19-lockdown-abusive-households-street-children/>). The Feminism India article dated 15.04.2020 is hereto annexed and marked as **P/8 [Pg. 74 - 77]**.

- f. Article titled "*COVID-19, Domestic Abuse and Violence: Where Do Indian Women Stand?*" published by Economic and Political Weekly dated 17.04.2020 (Source: [https://www.epw.in /engage/article/covid-19-domestic-abuse-and-violence-where-do](https://www.epw.in/engage/article/covid-19-domestic-abuse-and-violence-where-do)) is hereto annexed and marked as **Annexure P/9 [Pg. 78 - 83]**;
- g. WHO also issued a Joint Leaders' statement titled "*Violence against children: A hidden crisis of the COVID-19 pandemic*". Quoting WHO: "*Movement restrictions, loss of income, isolation, overcrowding and high levels of stress and anxiety are increasing the likelihood that children experience and observe physical, psychological and sexual abuse at home – particularly those children already living in violent or dysfunctional family situations. And while online communities have become central to maintain many children's learning, support and play, it is also increasing their exposure to cyberbullying, risky online behavior*

and sexual exploitation.” (Source: <https://www.who.int/news-room/detail/08-04-2020-joint-leader-s-statement-violence-against-children-a-hidden-crisis-of-the-covid-19-pandemic>).

- h. UNICEF has also recognized the threats posed to children during COVID19 and has released a list of recommendations on prevention and response to violence against children in its *“Safe to Learn during COVID-19: Recommendations to Prevent and Respond to Violence against Children in All Learning Environments”* dated May 2020 (Source: <https://www.unicef.org/documents/safe-learn-during-covid-19-recommendations-prevent-and-respond-violence-against-children>) which is hereto annexed and marked as **Annexure P/10 [Pg. 84 - 89]**.
- i. Several countries have enacted special policies, laws and programs to deal with violence against women in homes. In order to effectively combat the situation and to make homes ‘safe zones’, special measures need to be implemented by declaring domestic violence as “essential services” and must take steps to provide immediate relief to women and children.
- j. India has consistently experienced widening inequalities, increased domestic violence and sexual abuse against women and children. The Thomson Reuters report of 2018 places India first in the world’s most dangerous countries for women list. The same survey of 2010 (seven years prior to the above report) lists India as the fourth most dangerous country for women. Whilst this is just one sample survey, the indications

and methodology and parameters used, including of domestic violence and sexual abuse at home, demonstrates the severity of the issue and the need for sustained solutions. Even the National Crime Records Bureau Report of 2018 shows a demonstrable increase in offences against women and children, a substantial part of which pertains to domestic violence and sexual abuse.

- k. The pandemic has merely highlighted and given impetus to a festering malaise. The pandemic demonstrates that when it comes to violence against women and children in their domestic spaces, be it middle - or upper-class women or the poor women and children, who have no homes or are surviving in slums, the plight appears to be the same i.e., of increased abuse with very little scope for seeking remedies. The reasons for these cases vary from existing instances of domestic violence, which are now aggravated and financial tensions, difficulties in sourcing essentials, business / job losses, restriction in movement and other pandemic related issues adding to increased domestic violence. Many instances quoted hereunder however demonstrate the deep-rooted problem which goes beyond the pandemic lockdown.
- l. There has been a steady flow of reports showing the increase in the number of reported incidents of violence against women and children due to the lockdown as a result of the coronavirus. Some of these incident reports are listed hereunder:

- i. The National Commission for Women ("**NCW**") reported a rise of 94% increase in the number of complaint cases where women have been abused in their homes during lockdown. Between the period from 23.03.2020 to 16.04.2020, 587 complaints had been received by the NCW, which was a significant increase from the 396 complaints received in 25 days from 27.02.2020 to 22.03.2020. The NCW's total complaints from women increased to 116 in first week of March 2020 to 257 in the final week of the same month. In the first week of the India lockdown, the NCW received 58 complaints, close to double its number of weekly complaints. These numbers do not reflect reality, which stands presently at almost half a billion women being at risk in India due to the lockdown, as emphasized by the author Nigam S (2020) in her article annexed and marked hereto as **Annexure P/11 [Pg.90 - 105]** titled "*COVID-19: India's Response to Domestic Violence Needs Rethinking*" and **Annexure P/12 [Pg. 106 - 124]** titled "*COVID-19, Lockdown And Violence Against Women In Homes*" respectively.
- ii. Law Enforcement agencies have also reported a drastic increase in the number of domestic violence and child abuse complaints being received during the lockdown. The Delhi Police reported an increase of 1000-1200 per day as compared to 900-1000 calls received before the lockdown. Totally Delhi alone has reported 2500 cases of domestic violence during the lockdown. Punjab reported

21% increase in number of cases pertaining to crime against women with 700 cases being reported since lockdown has been imposed.

- iii. Whilst on one hand there is an increase in reports, the absence of normal reporting during the COVID19 lockdown was also noted not just by NCW but also State-wise. Tamil Nadu in fact directed police to check on known cases of victims of domestic violence, in the light of substantial drop in such reports. These news reports demonstrate the inability of victims to reach out for remedies with the Tamil Nadu incident merely being one amongst many. The has been reported in a Times of India article dated 07.04.2020 titled "*Tamil Nadu to check on victims of domestic violence*" (Source: <https://timesofindia.indiatimes.com/city/chennai/state-to-check-on-victims-of-domestic-violence/articleshow/75018292.cms>).
- iv. The present relief efforts do not take into consideration women, with no connectivity or little connectivity, which limits their ability to submit complaints or those traveling back to their homes or those living in slums and low-income housing areas who are easy targets due to lack of resources and / or even the space to maintain social distancing or simply to distance themselves from the offenders and predators. The pandemic lockdown showed the frailty of victims' position in not even being able to call in abuse, as they cannot report from the

immediate vicinity of their tormentors and in most Indian homes, space is a constraint. With a substantial number of women not having personal mobiles or other devices, even reporting a crime is a challenge.

1. The Respondent No. 4, in its efforts to continue to improve and protect the status of women during the current lockdown, has set up a help line to send WhatsApp alerts to report incidents of domestic violence against women. However, reports indicate that only 43% of women all over India have access to the internet or a smart phone. Further only 35% of internet users at an all-India level are women and the inequality is even wider when there is a distinction made between urban and rural internet usage number. Only 31% percent of rural women have access to the internet. With these numbers translating to India's billions, in effect the possibility of a victim even having a means of communication are bleak. Some of the news reports that reflect the present situation as set out above are listed in Article titled "*Hotlines Are Not Enough For The Country's Domestic Violence Victims*" dated 07.05.2020 published by *The Swaddle* (Source: <https://theswaddle.com/domestic-violence-victims-need-more-than-hotline-numbers-during-lockdown/>) is hereto annexed and marked as **Annexure P/13 [Pg. 125 - 129]**.

- v. Prior to the lockdown due to the COVID-19 pandemic, the reported cases pertaining to domestic violence against women and sexual abuse cases against children were already steadily rising.
- vi. The National Family Health Survey data shows that domestic violence is not considered, as a serious crime by many and that 42% men and 52% women believed that husband is justified in beating his wife in certain situations. Less than 1% sought help from police. These statistics also point to the need for sensitization not just of men but also of women to enable them to seek justice.
- vii. The National Crime Records Bureau in its "Crime in India – 2018" Report shows that number of incidents from 2016 to 2018 under The Protection of Women from Domestic Violence Act:

Act	2016	2017	2018
The Protection of Women from Domestic Violence Act	437	161	579

- viii. In 2018 NCRB, reported a total of 3,78,277 crimes against women were reported. In 2018, a total number of 296 cases of rape against women were reported, 7277 cases pertaining to dowry deaths, 5266 cases of abetment of suicide of women. Cases of cruelty by husbands and family members in 2018 was reported to be 1,04,165 cases.

- ix. India reportedly has the largest child population in the world, with 472 million children and homes are no longer considered safe spaces for most children, especially for children living in abusive households and with most offences against children being by those close or proximate to them. The Childline India helpline received more than 92,000 SOS calls requesting for protection from abuse and violence in the past few weeks since the country-wide lockdown was announced on 24.03.2020.
- x. Childline India has also reported that the number of calls on the helpline since the lockdown has increased by 50%. Around 8% of other calls out of a total of 3.07 lakh calls received were regarding child labour, 8% were with respect to missing or runaway children. These threats of physical, sexual, as well as emotional abuse, was therefore enhanced for children during COVID-19, as they may have been locked in the same homes, as their predators with no chance of escape or redress. The National Crime Records Bureau in its "Crime in India – 2018" Report shows that number of incidents from 2016 to 2018 against children under Child related Acts:

Act	2016	2017	2018
Incidents of Reports of Crimes against Children under Child related Acts.	2672	36072	42934

- xi. UNICEF estimated that the number of children exposed to domestic violence lies between **27.1 to 69 million**, given that most perpetrators of sexual assault against children are individuals known to them or even family members, neighbours etc., The present lockdown has clearly further aggravated their situation. The above details have been reported in an article titled "*Locked down with abusers: India sees surge in domestic violence*" (Source: <https://www.aljazeera.com/news/2020/04/locked-abusers-india-domestic-violence-surge-200415092014621.html>) published by Al Jazeera dated 18.04.2020.
- xii. With the present lockdown, the word "home" has been identified as a 'safe space' in the strategy to contain the coronavirus, however the word "home" has a different meaning to different individuals. Ideally one's home is meant to be a place of security and comfort to some, yet in many instances the same is also becoming a place where many women and children are facing brutal violence and discrimination and are unable to seek redress against heinous crimes. It is therefore essential that steps be taken to stop violence and protect women and children.
- m. Steps taken to protect women and children around the world, culled out from the article of Nigam. S. (2020) titled "*COVID-19, Lockdown And Violence Against Women In Homes*" (annexed hereinabove at 'Annexure L') and "*French Government to*

House Domestic Abuse Victims in Hotels as Cases Rise During Coronavirus Lockdown” dated 31.03.2020, from which some pointers emerge are:

- i. **Europe:** In Europe, domestic violence has been declared as an '**essential service**' and many have set up Helplines to support the victims of violence. Some European Countries have also further evolved this strategy by digitally contacting the victims wherever possible, using online chats, WhatsApp and other such portals where victims could easily establish contact with the helplines.
- ii. **Argentina:** In Argentina, pharmacies are helping women to report abuse including through use of secret code words.
- iii. **France:** In France also pharmacies are used for reporting domestic violence through code words. Further pharmacies and grocery stores are housing pop-up counseling services and 20,000 hotel rooms are made available to women who cannot seek shelter at any other place or could go home.
- iv. **Spain:** Women are exempted from lockdown in case they need to leave the abusive home and are allowed to use codeword “mask 19” to alert the pharmacy shops. Women are advised to use 'Silent solution' emergency call, which allows people to call the police using touch phone without the need to speak. This becomes helpful especially when living in close quarters with the perpetrator. Chatbots are deployed to assist women.

- v. **Canada and Australia** have announced special funds for violence against women as a part of their national plans to counter the damaging fallout of COVID-19.
 - vi. **Yukon, Canada:** Vulnerable women in Yukon are being provided with free cellphones equipped with free internet services to stay safe amid lockdown.
 - vii. **Italy** has allocated emergency cash scheme for workers in underground economy.
- n. With concerns rising with respect to safety and well-being of women and children, who are at home during self-isolation and have limited or no access to avail of online / mobile help services, Countries like Australia and the United Kingdom have pledged additional help for victims of domestic violence and sexual abuse. UK has pledged £76 million Pounds for abuse victims and Australia seeks to follow in France's foot steps to innovate in helping women and children be safe during this stage of the pandemic. The above is reported in the article titled "*Coronavirus: Government pledges £76m for abuse victims*" dated 02.05.2020 (Source: <https://www.bbc.com/news/uk-52516433>) and as **Annexure P/14 [Pg. 130 - 132]** is the article titled "*Australia should follow France's lead & use hotels to accommodate women experiencing family violence*" dated May 2020 (Source: <https://womensagenda.com.au/life/health/australia-should-follow-frances-lead-use-hotels-to-accommodate-women-experiencing-family-violence/>), respectively.

19. The Petitioner humbly submits that the details set out herein above clearly point to the following:
 - a. That the malaise of domestic violence and sexual abuse within homes is a deep – rooted and much prevalent problem in India, affecting women and children;
 - b. That COVID19 lockdown merely aggravated this problem and threw the spotlight on the lacunae in the justice delivery system, which has deprived several million victims to equal and timely justice and recompense;
 - c. That earlier studies and reports point to the extent and impact of the horrific instances of domestic violence and sexual abuse suffered by women and children at home including the reality checks done by Respondent No. 3 (i.e., Ministry of Women and Child Development) in its March 2017 Report but that even these recommendations remain to be implemented;
 - d. That recent events have demonstrated that mere implementation of the March 2017 recommendations would not suffice, as in most cases the victims face adversity at the very beginning i.e., in approaching authorities for justice or remedies;
 - e. That the Nirbhaya Funds allocated by the Government of India for the benefit of women and child welfare is not being utilized for the purpose of such allocation, as is mentioned in the March 2017 report of Respondent No. 3 (i.e., Ministry of Women and Child Development);
 - f. That there is urgent need for innovative and inclusive solutions to alleviate the plight of women and child victims of domestic violence and sexual abuse;

- g. That there is an urgent need for sensitizing justice delivery systems to address the needs of victims of domestic violence and sexual abuse;
- h. That apart from this, the need to sensitize men and women, of the law pertaining to domestic violence and sexual abuse; punishments thereunder; the rights and remedies available to women including through the Nirbhaya fund; and the need to avail of such remedies is a much-needed requirement, most of which finds place in the March 2017 report of Respondent No.3 and which remains to be implemented still;
- i. That easy access to justice is the most urgent requirement for victims and thereafter speedy, cost – free and effective conclusion of cases initiated would act as an effective deterrent;
- j. That for victims to seek redress effective alternatives have to be made available to victims, as was done by France i.e., of providing hotel accommodation during COVID19. That present alternatives are worse than the abuse that victims suffer at home and hence many victims merely suffer in silence;
- k. That for effective action against the horrific incidents of domestic violence and sexual abuse to be a reality, it is imperative that victims are provided with financial, physical and emotional support, through a suitable place of stay; money for their sustenance and that of their dependents; medical help for their physical and mental states and legal assistance from the stage of filing complaints to the stage of final closure of the proceedings.

20. In light of the above, the following issues need to be addressed for effective protection of women and children from domestic violence and sexual abuse:
 - a. Sustained action, during and after COVID19, that is needed to protect women and children from the deep-rooted malaise of violence and sexual abuse in their homes / from those close to them;
 - b. Immediate preventive and protective measures to be taken by the Respondents against domestic violence and sexual abuse against women and children;
 - c. Interim measures of protection and easy access to justice that ought to be extended to the victims of domestic violence and sexual abuse including during the present COVID19 situation and also in the future;
 - d. Interim and long term measures for financial support to victims and their families for their sustenance; for medical help for victims; for their physical and mental recovery and rehabilitation; effective representation from the stage of filing of complaint till trial and conclusion of legal proceedings till the final stage, as was recommended by Respondent No. 3 (i.e., Ministry of Women and Child Development) in its report of March 2017; and such or other reliefs needed to support victims;
 - e. Sensitization of judiciary, police and other authorities in handling cases of domestic violence and sexual abuse of women and children.
21. It is submitted that pursuant to orders of this Hon'ble Court in *Re: Prajwala Letter dated 18.2.2015. Videos of Sexual Violence &*

Recommendations, including order dated 22.03.2017 ((2018) 15 SCC 567) and 23.10.2017 ((2018) 15 SCC 573), Respondent No.2 has set up a website cybercrime.gov.in wherein complaints pertaining to cybercrimes may be submitted. The Petitioner submits that it is imperative and urgent that a similar provision be made for online submission of complaints pertaining to domestic violence and sexual abuse of women and children. The Petitioner submits that with the present need for filing of a physical complaint in writing under Section 154 of the Code of Criminal Procedure (Cr.P.C), there is substantial constraint and resistance to filing of Criminal complaints and victims suffer in silence. The COVID19 lockdown merely aggravated this situation with victims not being in any position to go to a police station to file their complaints. It is submitted that even with the addition of this remedy, many victims may not be able to avail of remedies, as barely 43% of women have internet connectivity through even one device. The news reports that reflect the above situation are listed hereunder:

- a. Article titled *"Only 43% women in India have cellphones, country tops gender gap in ownership"* dated 08.08.2018 (Source: <https://www.moneycontrol.com/news/india/only-43-women-in-india-have-cellphones-country-tops-gender-gap-in-ownership-2823801.html>);
- b. Article titled *"India Ranks Among Lowest in Women's Access to Mobile, Internet"* dated 09.08.2018 (Source: <https://www.thequint.com/news/india/study-on-internet-and-mobile-phone-use-in-india-reveals-gender-gaps>);

22. Whilst 2019 figures of 'Quartz' (*source: <https://qz.com/india/1555177/indian-women-are-using-mobile-internet-more-than-ever/>*) indicates increased awareness of internet and use of mobile internet usage by women, the gender gap and more importantly the absence of effective means of filing online complaints by women victims remains a reality. It is therefore imperative that alternate modes for submission of complaints be made available to victims. Absence of communication devices and the possibility of lack of socializing and mobility of domestic violence victims is a reality even in normal times. It is therefore imperative that alternate methods to online filing of complaints or physical filings at police stations are evolved including through the help of local Anganwadis, other social workers, pharmacies or grocery vendors.
23. For such alternate methodologies to be effective it is imperative that precise Standard Operating Procedures are formulated by police to ensure that immediate action is taken on such complaints. The Quartz India article is titled "*India made the biggest leap in the world in closing the mobile internet gender gap*" dated 21.02.2019 (*Source: <https://qz.com/india/1555177/indian-women-are-using-mobile-internet-more-than-ever/>*).
24. In order to effectively prevent and protect against the horrific crimes of domestic violence and sexual abuse at homes against women and children, it is imperative that this Hon'ble Court formulate and issue the necessary guidelines to put in place to deal with the increasing crimes of domestic violence and sexual abuse cases against women and children including for:

- a. Filing of complaints online through a dedicated web portal in the lines of "cybercrime.gov.in" for domestic and sexual abuse cases pertaining to women and children;
 - b. For filing of complaints through other means including SMS messages, through social workers or even at pharmacies and vegetable shops or groceries and for such complaints to be submitted and taken cognizance of by police;
 - c. For stringent Standard Operating Procedures for handling, investigations and expeditious closure of such complaints and legal proceedings pursuant thereto;
 - d. For implementation of the recommendations of the Report of March 2017 of the Respondent No.3;
 - e. For sensitization of judiciary and police in handling of domestic violence and sexual abuse cases pertaining to women and children;
 - f. For ensuring effective use of the Nirbhaya funds for direct benefit of and access to victims of domestic violence and sexual abuse cases;
 - g. To issue such or other directions, as is needed to ensure prevention, protection and speedy and effective prosecution of cases of domestic violence and sexual abuse cases against women and children.
25. It is submitted that to ensure effective remedial justice to victims of offences of rape, section 166A of the Indian Penal Code ("IPC") was introduced. This provision however is restricted only to some sections of IPC and not all offences pertaining to women and

children. It may be imperative for the said provision to be expanded to include non – registration of any case pertaining to offences against women and children an offence. This Hon'ble Court may be pleased to direct the concerned Respondents to take steps for effectuating the same and in the meantime to issue directions for stringent action against non - registration of complaints. The Petitioner also submits that even with respect to rape cases, there does not appear to be statistics of how many instances this provision has been invoked considering that there are several complaints of non – registration of rape cases. The Petitioner submits that it is imperative that Respondent No.2 be directed to submit the details thereof and also provide stringent Standard Operating Procedures for registration of complaints under Section 166A IPC, as there is bound to be violation of rights when the complaint would fall within the same jurisdiction as the police station, which violated the rights of victims in the first place. The Petitioner submits that such remedial action is imperative in the light of the increasing instances of violence against women and children.

26. It is also urgent and imperative that Respondents are directed forthwith:
 - a. To declare domestic violence as “essential services” and take steps to provide immediate relief to women and children;
 - b. To publicize helpline numbers, websites, applications and any other mode of contacting the appropriate Government authorities or police officials, organisations, centres to voice / lodge complaints with respect to any threat or incident of

domestic violence and sexual abuse against women and children;

- c. To direct the Respondents to appoint a special task force or official in every vicinity, taluka, city who can take necessary action to curb the growing menace of domestic violence and sexual abuse of women and children. These officials should also be directed to undertake steps, which will help make it easier and encourage victims to contact them in at the appropriate time.
- d. The said task force/official should be encouraged to include women officers;
- e. To direct the Respondents to allocate trained and skilled professionals to undertake the task of addressing domestic violence and sexual abuse complaints pertaining to women and children;
- f. To direct the Respondents to allow movement of individuals travelling for registering complaints with respect to domestic violence including providing travel passes if required;
- g. To direct the Respondents to provide professional free of cost counseling and representation to victims vide telephone, text and / or video facilities available to the victim;
- h. To direct the Respondents to set up special shelters for victims and children for cases where the best solution is for them to relocate for the time being and ensure necessary essentials are provided therein;
- i. To direct the Respondents to ensure the implementation of necessary action vide the powers vested upon them under Section 34 in the Disaster Management Act, 2005;

27. The Petitioner states that the above are merely suggestions that this Hon'ble Court may consider. That such or other orders are necessary, just and imperative to ensure protection of the fundamental rights of women and child victims of domestic violence and sexual abuse. That the victims do not have any other effective or efficacious remedies and that this Hon'ble Court's intervention is most urgent and imperative in the interests of justice and to protect the fundamental rights of such victims.
28. That the present Petitioner has not filed any other Petition in any High Court or the Supreme Court of India on the subject matter of the present petition.

PRAYER:

It is, therefore, Most Humbly and Respectfully prayed that this Hon'ble Court may graciously be pleased to:

- a. issue a Writ of Mandamus or any other appropriate Writ or order for protecting the rights of women and child victims of domestic violence, sexual assault and rape, including through issuance of
 - i. Appropriate guidelines and directions to the Respondents for protection of women and children, who are victims of domestic violence and / or sexual assault or rape including those set out herein above from paragraphs 15 to 22;
 - ii. Direct Respondents No.1 & 2 to address the gaps present in the prevailing system in order to create gender

equitable and child-centered legislation, policies and programmes;

- iii. Issue guidelines setting out appropriate steps and measures to be carried out by enforcement agencies and / or any other authority, official and / or organisation in charge of addressing cases of domestic violence and direct the Respondents to ensure implementation and enforcement of the same;
- iv. Grant such other reliefs, including the costs of this writ petition, in the interests of justice.

b. Pending hearing and disposal of this Writ Petition, this Hon'ble Court may be pleased to issue orders and directions to Respondents:

- i. To make available easily accessible alternative means to file complaints pertaining to domestic violence and sexual abuse including rape;
- ii. To make available alternate and comfortable lodgings and financial support and education for families / victims of domestic violence and sexual abuse;
- iii. To ensure effective representation of the victims from the stage of filing of complaints and to also provide them with medical aid – for physical and mental trauma;

- iv. To set up methodologies for verification of the continued well – being of victims, who return to their homes, for a specified period of time after the registration of complaint and pending disposal;
 - v. Specify timelines for expeditious disposal of offences as above against women and children;
- c. Pass such or other orders or directions, as this Hon'ble Court deems fit and proper in the circumstances of the case.

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

Drawn by: V.Balaji,, Advocate
Settled by: N.S.Nappinai, Advocate

FILED BY

[ASTHA TYAGI]
Advocate for the Petitioner

Drawn on: 06.06.2020
Filed on: 10.06.2020

IN THE SUPREME COURT OF INDIA

ORIGINAL JURISDICTION

WRIT PETITION [CIVIL]No. _____ OF 2020

In the matter of:

Red Dot Foundation

...Petitioner

Versus

Union of India & Ors.

...Respondents

AFFIDAVIT

I, Ms. Elsa Marie D'Silva, D/o. Edwin D'Silva, Chief Executive Officer of Red Dot Foundation, having address at 7 Sea View Bungalows Versova, Andheri, Mumbai (W) – 400053, do hereby solemnly affirm and state as follows:-

1. That I am the authorized representative of the Petitioner herein and as such am aware of the facts and circumstances of the case and as such I am aware and competent to swear this Affidavit on behalf of myself and others.
2. That I have gone through the contents of the accompanying Writ Petition (Paragraphs 1 to 28 at page 1 to 33), Synopsis-cum-List of Dates and have understood the same. I say that the same has been drafted under my instructions and the contents thereof are true and correct to the best of my knowledge and belief.
3. That I have gone through the contents of the IAs filed along with the Writ Petition and have understood the same. I say that the same has been

drafted under my instructions and the contents thereof are true and correct to the best of my knowledge and belief.

4. I say that I have no individual or personal interest / personal gain in the Writ Petition and the same is being prepared purely in the larger public interest.

5. That I state that the Annexures appended thereto are the true copies of their respective originals.

DEPONENT

VERIFICATION

I the above named deponent do hereby verify that the contents of the above Affidavit are true and correct to the best of my knowledge and that nothing material has been concealed therefrom.

Verified at Mumbai on this 5th day of June, 2020

DEPONENT