

IN THE HIGH COURT OF DELHI AT NEW DELHI
(EXTRA-ORDINARY CIVIL WRIT JURISDICTION)
W.P. (C) NO. OF 2015
(IN THE MATTER OF PUBLIC INTEREST LITIGATION)

PUBLIC RESOURCE ORG, INC. & ORS.

..PETITIONER

VERSUS

UNION OF INDIA & ANOTHER.

..RESPONDENTS

MEMO OF PARTIES

1. PUBLIC RESOURCE ORG, INC.

Through its president, Mr. Carl Malamud,
1005 Gravenstein Highway North, Sebastopol,
California, 95472, USA.

2. DR. SUSHANT SINHA

826, 1st Floor, 2nd Cross, 7th Main Rd,
Indiranagar, HAL 2nd Stage,
Bengaluru - 560008
Karnataka

3. MR. SRINIVAS KODALI

4-4-5/12/57/A, Chaitanya Puri Road No 1,
Filter Bed, Adilabad,
Telangana- 504001

..PETITIONERS

VERSUS

1. UNION OF INDIA

Ministry of Consumer Affairs, Food and Public Distribution,
Department of Consumer Affairs,
Through the Secretary,
Krishi Bhawan,
New Delhi - 110001

2. BUREAU OF INDIAN STANDARDS,

Through its Director General,
Manak Bhawan,
9, Bahadur Shah Zafar Marg,
New Delhi 110 002

..RESPONDENTS

**NISHITH DESAI ASSOCIATES
C-5, DEFENCE COLONY,
NEW DELHI-110024**

NEW DELHI

October 29, 2018

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**WRIT PETITION (PUBLIC INTEREST LITIGATION) UNDER
ARTICLE 226 OF THE CONSTITUTION OF INDIA, 1950, FOR THE
ISSUANCE OF AN APPROPRIATE WRIT, ORDER OR DIRECTION
TO THE UNION OF INDIA AND BUREAU OF INDIAN STANDARDS
TO MAKE THE INDIAN STANDARDS PUBLISHED BY THE BUREAU
OF INDIAN STANDARDS UNDER THE BUREAU OF INDIAN
STANDARDS ACT, 2016, FREELY AVAILABLE TO THE PUBLIC AT
LARGE.**

TO,

**THE HON'BLE CHIEF JUSTICE AND HER COMPANION
JUSTICES OF THE HIGH COURT OF DELHI AT NEW
DELHI.**

THE HUMBLE PETITION OF THE PETITIONERS ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The present writ petition is being filed by Petitioner No.1, Petitioner No. 2 and Petitioner No.3 ('Petitioners') as a Public Interest Litigation as there is no other efficacious remedy available to Petitioners. Representations made by Petitioner No.1 to the Respondents to make the BIS Standards freely available or available at nominal costs have been to no avail. Petitioners submit that they are not guided by self-gain for themselves and that the intention behind filing the present writ petition is purely in public interest. The Petitioners are filing the present writ petition against Ministry of Consumer Affairs, Food and Public Distribution, Union of India ('Respondent No.1') and Bureau of Indian Standards ('Respondent No.2') so that the citizens of India may have access to more information regarding statutorily prescribed BIS standards in respect of goods and public safety, and also so that the manufacturers can be held accountable to such statutory BIS standards thereby enabling greater transparency in respect of standard of goods sold and made available in Indian markets.
2. Petitioners humbly submit that they have obtained information regarding publication of standards and the manner in which standards are made public through correspondence between Petitioner No.1 and Respondents. Additionally, some information relating to standards is also available on the website of Respondent No.2 and in the BIS Act.

Respondent No.2 has confirmed in its communications that standards will not be made freely available. These have been the primary source of information for Petitioners.

3. Petitioners humbly submit that if the present writ petition is allowed, all consumers in India will benefit from the free publication and ease of access to standards. Petitioners further submit that easy access to statutory standards in respect of manufactured goods will be of benefit to all citizens. Due to the manner in which such standards are published and the prohibitive costs of access to such standards, individual consumers are unaware of the applicability and enforceability of mandatory standards or even the fact that such standards exist. The efforts of the Petitioners have made the standards more usable and useful to a large community of students, professors, scholars, research scientists etc. They have increased the readability of standards by transforming them to HTML (Hyper Text Markup Language) form, which works on mobile phones, and also for the visually impaired. This is done solely with the intention to spread more awareness and rendering public service.

4. Petitioners humbly submit that they are invoking the jurisdiction of this Hon'ble Court to issue a writ in the nature of mandamus or such other writ that this Hon'ble Court determines as fit and appropriate against Ministry of Consumer Affairs, Food and Public Distribution, Union of India (Respondent No.1) and Bureau of Indian Standards (Respondent No.2). Respondent No.2 is a creation of a statute and a Government

entity and is therefore 'state' within the meaning of Article 12 of the Constitution of India, 1950 ('Constitution'). Respondent No.2 is responsible for making and publishing standards and Petitioners are aggrieved by Respondent No.2's reluctance and failure to make the standards public. The Petitioners pray that even if standards are being sold, BIS cannot prohibit or threaten individuals from making standards available to others, and to that extent Section 11 of the BIS Act, 2016 should be struck down. To the best of knowledge of the Petitioners, no other persons, bodies, institutions are likely to be affected by orders of this Hon'ble Court in light of relief sought in this writ petition.

PARTIES

- 5a. Petitioner No. 1 is a registered not-for-profit organization based in California, United States. One of the principal objectives of Petitioner No.1 is to spread knowledge on the Internet for the benefit of the general public solely for educational, non-commercial and charitable purposes. In line with this objective, Petitioner No. 1 has been actively involved since 2007 in placing materials such as court opinions, technical standards, and building codes mandated under United States law on the Internet. Petitioner No.1 solely operates on grants received from organizations such as Google, Omidyar Network, Arcadia Fund and Elbaz Family Foundation and contributions from individuals.
- 5b. Mr. Carl Malamud is the President and Founder of Petitioner No.1. Mr. Malamud is the author of 9 books in the fields of computer science and

computer networks and was previously the founder of Internet Multicasting Service, a non-profit that started the first radio station on the Internet. Mr. Malamud is the recipient of the Berkman Award from Harvard '*for his extraordinary contributions to the Internet's impact on society.*' For the last 30 years, Mr. Malamud has been making government information more widely available as his vocation and his avocation. Mr. Malamud was responsible for placing the U.S. Securities and Exchange's Electronic Data Gathering, Analysis, and Retrieval system (EDGAR database) and the U.S. Patent database on the Internet for the first time and contributed his software and computers to the Securities and Exchange Commission to enable them to take over the service. Mr. Malamud was also responsible for placing all the opinions of the U.S. Court of Appeals on the Internet for the first time. His work has been specifically recognized by the Speaker of the United States Congress House of Representatives and the Judicial Conference of the United States. Mr. Malamud's objective personally and also of Petitioner No.1, is always to assist governments in various jurisdictions in meeting the challenges of information technology so as to provide services to common people more efficiently and effectively.

- 5c. Petitioner No. 2, Dr. Sushant Sinha, is a computer scientist who received a Ph.D. degree in Computer Science and Engineering from the University of Michigan in 2009. Following his studies, Dr. Sinha returned to Bengaluru where he was employed as a Principle Engineer at Yahoo specializing in search engine technologies. He is the author of numerous peer reviewed papers in respected international journals. In

May 2007, while he was pursuing his Ph.D., on his own time, Petitioner No.2 began a project to create a web site called 'Indian Kanoon', a portal on the Internet that provides access and searches across the legal materials of India, including legislations and regulations as well as court cases for the Union of India and the states. He is currently the CEO of IKanoon Software Development Pvt. Ltd, a company he founded under the Indian Companies Act to provide advanced workflow and collaboration solutions to legal professionals that would in turn fund the development and the maintenance of the free resources provided on the website. By building Indian Kanoon and providing statutes as a free service for the past 7 years on the Internet, Petitioner No.2 believes he is making a contribution to India, an endeavor all citizens should benefit from. He strongly believes that every Indian should be legally aware of his rights and the law governing them and by providing these legislations, regulations, notifications and Indian Standards he is providing free and easy access to the required resources to every citizen to enable him to stand up for his right provided under law.

- 5d. Petitioner No.3 is Mr. Srinivas Kodali a resident of Telangana. Petitioner No.3 received a Bachelor's Degree in Civil Engineering at the Indian Institute of Technology Madras ('IIT Madras') in Chennai. Petitioner No.3 specialized in the study of transport engineering and worked at the Intelligent Transportation Systems Laboratory in the Centre for Excellence in Urban Transport at IIT Madras where he developed a system for dynamic tracking of campus buses at IIT Madras, a project that was awarded the special recognition Volvo sustainable mobility

award by Volvo in October 2012. Petitioner No.3 has also developed applications for real-time bus arrival prediction in Chennai and is now working on identifying transit deserts in Indian cities using techniques of “big data,” spatial algorithms, and network analysis. Petitioner No.3 was also a part of the project team of ChaloBEST Project at the Homi Bhabha Centre for Science Education, where he was helping develop tools for transit agencies and commuters in Mumbai. As a student of the topic and now as a working transportation engineer, Petitioner No.3 has no financial interest in this litigation. His motivation is to be able to consult and freely share the important information that is in the Indian Standards, a particularly relevant body of knowledge for his chosen profession to serving the public good. Petitioner No.3’s prime goal is to build a better transportation system for India, and as Indian Standards published by BIS are a way for all engineers in this field to be aware of important safety and other principles that are embodied in the transportation and safety standards, Petitioner No.3 believes that these Indian Standards are a crucial resource to contribute to the development of “smart” transit for the people of India. The petitioners have means to pay the cost, if any, imposed by this Hon’ble Court.

6. Petitioner No.1 has made several representations to Respondent No.2, Petitioner No.1 had also written to Respondent No.2 by way of letters dated June 25, 2014, August 2, 2014 and October 25, 2014 however, there was no change in stand of Respondent No.2. As the issues raised are of public importance, Petitioners are filing the present petition as a Public Interest Litigation.

Petitioner No.1 is an organization that is devoted to improved standards of transparency, empowering citizens and helping citizens enforce their rights. Mr. Carl Malamud has travelled to India several times and also passionately believes in the objectives of Petitioner No.1. Petitioner No. 1 is seeking to make available Standards which Petitioner No.1 had subscribed to and Respondent No.2 is now refusing access / renewal. Denial of information and access to information violates fundamental rights and Petitioner No.1 as an organization devoted to greater transparency and access of information has filed this writ petition *bona fide* and has no commercial interest in the same. Thus, Petitioner No.1 has *locus standi* to file the present writ petition.

OBJECT OF THE PETITION

7. The Petitioners before this Hon'ble Court are seeking limited relief that Respondents be directed to make public and freely accessible information relating to laws and legal standards of various products. Further, Section 11(1) of the BIS Act, 2016 ("**BIS Act**") which prohibits freely disseminating and making accessible the Indian Standards or even parts thereof - be struck down as un-constitutional. Petitioners have challenged the prohibitive charges levied by Respondents on the ground that the same are arbitrary, unreasonable, deprive access of citizens to the law of the land and thus violate fundamental rights of citizens. To this end, Section 9(g) of the BIS Act and Rule 25 of the BIS Rules 2018 ("**BIS Rules**") which authorizes BIS to sell the Indian Standards at a

price which may be determined by BIS – be struck down as *ultra-vires* the constitution or in the alternate - interpreted to mean that BIS may sell the Indian Standards at a *nominal price* as determined by BIS.

Respondent No. 1 is Union of India represented through the Chief Secretary, Ministry of Consumer Affairs, Food and Public Distribution.

The Department of Consumer Affairs is one of the two departments of the Union Ministry of Consumer Affairs, Food and Public Distribution.

Department of Consumer Affairs is the nodal ministry for overseeing the enforcement of various legislations relating to consumers and consumer rights, including, BIS Act and legal metrology. The Minister for Consumer Affairs is also President of the Bureau of Indian Standards, Respondent No.2. As such no relief is sought against Respondent No.1, however, its presence is required for the effective adjudication of this writ petition. Further, Respondent No.1 is the Ministry in charge of rights of consumers.

HISTORY OF BUREAU OF INDIAN STANDARDS

8. The predecessor institution of Respondent No. 2, the ISI (short for Indian Standard Institution), that came into being on January 06, 1947, started operating the Certification Marks Scheme under the Indian Standards Institution (Certification Marks) Act, 1952 ('Scheme'). The Scheme, was formally launched by ISI in or around 1955-56, enabled it to grant licenses to manufacturers producing goods in conformity with Indian Standards and to apply ISI Mark on their products.

ENACTMENT OF BUREAU OF INDIAN STANDARDS ACT 2016

9. BIS was initially created by an Act of Parliament in 1986 and was formed by taking over the assets and liabilities of the then existing Indian Standards Institution ('ISI'). In view of the increasing significance of Standards and conformity assessment systems in world trade, it was felt that the BIS should re-orient itself to adequately address the future challenges as the National Standards Body of India. To address these issues and future challenges in the area, it was proposed that a new legislation be enacted and BIS Act, 1986 be repealed. Accordingly, the Bureau of Indian Standards Bill, 2015 was introduced in the parliament and was passed by both houses of the Parliament and received assent of the President on March 21, 2016. The BIS Act, 2016 came into effect from October 12, 2017. BIS is the key agency in formulation of standards and certification programs ('Indian Standards' 'BIS Standards'). The Bureau is constituted under Section 3 of the BIS Act ('Bureau').

10. Entry 50 and Entry 51 of List I of Schedule 7 of the Constitution empowers the Union Parliament to legislate in respect of subject relating to standards of weights and measures and establishment of standards of quality for goods sold in inter-State commerce. It is in exercise of these powers that Union Parliament enacted the BIS Act and has taken further steps thereafter.

11. Thus, Respondents are responsible for the formulation of standards, also referred to as Indian Standards, certification of products and systems, testing and calibration of schemes, providing various ancillary services and enforcement of such standards. As stated above, the Bureau is a body corporate which carries on various activities which are mandated under the BIS Act. The Bureau is constituted by Section 3 of the BIS Act.

PRIMARY OBJECTIVE OF BIS

12. Respondent No. 2's main activities involve standards formulation and product certification. Respondent No.2 has so far formulated over 19,300 standards for 9,500 products and services in a multitude of areas such as cosmetics, medical devices, disinfectants, steel products, internal combustion engines, clinical thermometers, oil pressure stoves, solvents for use in the extraction of vegetable oils, gas cylinders, X-Ray devices, infant foods, electrical wirings, lifts and escalators, ropeways, cable televisions, pneumatic tyres and several other products that affect every citizen of India. Each of these standards have a significant impact on the public safety of the citizens of India. Most people are not aware of the significant role Respondent No.2 plays to ensure safety and efficacy of the products used by them in their daily life.
13. It needs to be emphasized that these standards are law within the meaning of Article 13 of the Constitution and consequently, binding on

those persons for who it is applicable. It is respectfully submitted that as has been held by the Hon'ble Supreme Court of India ('Supreme Court'), once procedure established by law has been followed by a statutory authority, subordinate and delegated legislation is law under the Constitution. Moreover, compliance with specific standards has been deemed to be 'mandatory' in nature as per the Quality Control Orders under various legislations issued by the Government of India from time to time, as discussed below.

14. Every year, Respondent No. 2 publishes more than 300 new standards and 300 amendments. Respondent No.2's product Certification Scheme is one of the largest in the world, with over 26,500 licensees covering more than 900 products. It is in existence for more than 58 years. It allows the licensees to use the popular 'BIS' and 'ISI' marks on their product, which is synonymous with quality and safety. Respondent No. 2 also operates the Foreign Manufacturers Certification Scheme under which overseas manufacturers can be granted license to use the BIS and ISI Standard Marks. As submitted above, Indian Standards are law as per the Constitution and compliance with some of these Indian Standards (approximately 180) mandatory.
15. The objective of the BIS Act is *to provide for the establishment of a national standards body for the harmonious development of the activities of standardization, conformity assessment and quality assurance of goods, articles, processes, systems and services and for*

matters connected therewith or incidental thereto. The objective is not – to generate profit from sale of Indian Standards.

16. The statement of objects and reasons of the BIS Act provides:

“STATEMENT OF OBJECTS AND REASONS

The bureau of Indian Standards Act, 1986 (BIS Act) provides for establishment of the bureau of Indian standard (BIS) and for the harmonious development of the activities of standardisation, marking and quality certification of goods and processes. So far, the BIS has formulated over 19,300 standards for about 9500 products and services.

2. The core activities of BIS are standard formulation and certification of articles and processes under license. The BIS has the power to grant license to use the standard mark under section 10 of the BIS act. The World Trade Organisation (WTO) Agreement on Technical Barriers to Trade encourages all member countries to adopt international standards and also moved to words mutual recognition of certification systems. WTO guidelines also provide that enforcement of standards should have uniform application for both domestic industry and imported goods. In view of the increasing significance of standards and conformity assessment systems in the world trade, it is essential that the BIS re-orient itself to adequately address

the future challenges as the National Standard Body of India.

3. At present, the BIS is not formally recognised as the National Standard Body of India though it has been representing India in various international bodies. The BIS act also does not provide for recall of substandard ISI marked product, hallmarking of precious metal articles, compounding of offences, etc. Provisions related to formulation of standards and conformity processes are also required to be aligned with global bright best practices. Further the said act restricts the list of Items to those, as referred to in the Schedule of the Industries (Development and Regulation) Act, 1951 which can be brought under the ambit of mandatory compliance by manufacturers.

4. In view of the increasing significance of standards and conformity assessment systems in the World Trade, and to address the aforesaid issues and future challenges in the area, comprehensive amendments are required in the present BIS Act of [to] adequately protect the interest of the consumers. Therefore it is proposed to enact a new legislation and repeal the BIS Act.

5. The bureau of Indian Standards Bill, 2015, inter alia, seeks to provide -

i. Establishment of BIS as National Standards Body of India;

- ii. *To empower the central government to authorise any other agency having necessary accreditation for the purpose of conformity assessment against Indian standards;*
- iii. *To enable the government to bring more products, systems and services under the ambit of standardisation;*
- iv. *To allow multiple types of conformity assessment schemes in tune with global best practices;*
- v. *to enable mandatory hallmarking of precious metal articles;*
- vi. *To prevent the misuse of standard mark;*
- vii. *To provide for compounding of offences and also make certain offences as cognizable; and*
- viii. *To repeal the bureau of Indian standards act, 1986 (63 of 1986).”*

b. The Preamble to the BIS Act provides:

“An Act to provide for the establishment of a national standards body for the harmonious development of the activities of standardisation, conformity assessment and quality assurance of goods, articles, processes, systems and services and for matters connected therewith or incidental thereto.”

17. Furthermore, the functions of BIS – which are in conformity with the objective as above – are set out in Section 9(2):

(2) The Bureau shall take all necessary steps for promotion, monitoring and management of the quality of goods, articles, processes, systems and services, as may be necessary, to protect the interests of consumers and various other stake holders which may include the following namely:--

(a) carrying out market surveillance or survey of any goods, article, process, system or service to monitor their quality and publish findings of such surveillance or surveys;

(b) promotion of quality in connection with any goods, article, process, system or service by creating awareness among the consumers and the industry and educate them about quality and standards in connection with any goods, article, process, system and service;

(c) promotion of safety in connection with any goods, article, process, system or service;

(d) identification of any goods, articles, process, system or service for which there is a need to establish a new Indian Standard, or to revise an existing Indian Standard;

(e) promoting the use of Indian Standards;

(f) recognising or accrediting any institution in India or outside which is engaged in conformity certification and inspection of any goods, article, process, system or service or of testing laboratories;

(g) coordination and promotion of activities of any association of manufacturers or consumers or any other body in relation to improvement in the quality or in the implementation of any quality assurance activities in relation to any goods, article, process, system or service; and

(h) such other functions as may be necessary for promotion, monitoring and management of the quality of goods, articles, processes, systems and services and to protect the interests of consumers and other stakeholders.

(3) The Bureau shall perform its functions under this section through the Governing Council in accordance with the direction and subject to such rules as may be made by the Central Government.

SCHEME OF BIS ACT, 2016

18. The Bureau may constitute committees under the BIS Act, including the Advisory Committee and Executive Committee. Section 7 of the BIS Act provides for the appointment of a Director-General, who shall be the Chief Executive Authority of the Bureau.

19. Section 10 of the BIS Act provides that standards established by the Bureau shall be the Indian Standards. It further provides that the Bureau may establish, publish, review and promote Indian Standard. It may adopt as Indian Standard, any standard, established by any other Institution in India or elsewhere. It may recognise or accredit any institution in India or outside which is engaged in standardisation. It also allows Bureau to undertake, support and promote research and constitute technical committees of expert for formulation of standards. Undoubtedly in pith and substance, the object of the BIS Act is to establish, publish, review and promote Indian Standard for the benefit of the Indian Consumers, to further quality of goods, services and systems, to ensure public safety and ensure the undertaking, support and promote of research and formulation of standards.
20. Section 10(4) specifically provides that Indian Standard shall be notified and remain valid till withdrawn. Section 10(5) provides that the copyright in an Indian Standard or any other publication of the Bureau shall vest in the Bureau. It is pertinent to note that this provision is newly inserted in the BIS Act and was not present in the BIS Act, 1986.
21. Section 11 is a newly inserted provision which was not present in the BIS Act, 1986. It prohibits persons from publishing reproducing or recording any Indian Standard or part thereof without the authorization of the Bureau.

22. Section 13 provides for the grant of license or certificate of conformity which a person can apply for upon payment of license fee to establish that his products (whether goods or services) conform to the relevant Indian Standard (whether such a Standard is mandatory or not).
23. Section 14 provides for certification of Standard Mark of jewelers and sellers of certain specified goods. Section 16 provides for compulsory use of Standard Mark for certain products (which signifies that the product conforms to the Indian Standard promulgated for it). It further provides that the products which will require compulsory use of Standard Mark will be published in the Official Gazette.
24. Section 17 prohibits the manufacture, sale, import etc. without the Standard Mark of products as specified / published under Section 16 of the Act.
25. Section 28 gives power to certification officer for search and seizure of goods, articles etc. in relation to which contraventions of the act has taken place.
26. Section 29 (1) of the BIS Act provides that any contravention of the Sections 11 or 26(1) shall be punishable with fine which may extend to Rs, 5,00,000 (Rupees Five Lakh). It further provides that any contravention of Sections 14(6), 14(8) or 15 will be punishable with imprisonment of upto one year or fine not less than Rs. 1,00,000/- (Rupees One Lakh) but may extend upto 5 times the value of goods/

articles sold or offered to be sold. Further any contravention of Section 17 will be punishable with imprisonment upto two years or fine not less than Rs. 2,00,000/- (Rupees Two Lakh) for first contravention and not less than 5,00,000/- (Rupees Five Lakh) for second contravention and subsequent contraventions, but may extend upto 10 times the value of goods/articles to be sold or offered to be sold. Thus, the BIS Act makes it clear that certain goods or processes shall be made compulsorily applicable and without such licence, a manufacturer may not be able to either manufacture or sell goods in India. Further, non-compliance with the BIS Act can result in criminal prosecution. This again reinforces the mandatory nature of the standards prescribed and that the same are law under the Constitution.

27. Section 30 deals with offences by companies, Section 31 deals with compensation to consumers for injury caused by non-conforming goods, articles etc. Section 32 provides for cognizance of offence under the act by courts and Section 33 deals with compounding of offences committed under BIS Act subject to certain stipulations.

PROCESS OF FORMULATION OF INDIAN STANDARDS

28. Respondent No. 2 formulates the standards when any Ministry of the Central Government, State Governments, Union Territory Administrations, consumer organizations, industrial units, industry-associations, professional bodies, its members and members of its technical committees submit to the Bureau a proposal for establishing a

standard or for revising, amending, or cancelling an established standard. The work of formulation of standards on any specific subject is undertaken when the Division Council of Respondent No.2 is satisfied that there is a necessity for standardization. The Division Council concerned then assigns the task of formulating the standard to an appropriate Sectional Committee.

29. The Sectional Committee then widely circulates the draft standard for a period of not less than one month for comments and suggestions. The Sectional Committee then considers the comments received, formulates a draft standard and forwards it to the Chairman of the Division Council for adoption.

30. Out of the approximately 19,300 standards that have been formulated by Respondent No.2 that cover a multitude of products, certain Indian Standards have been notified as mandatory (under Section 16 of BIS Act / Section 14 of the old BIS Act, 1986). Every article or process falling under the purview of mandatory standards have to conform to these standards mandatorily. Approximately 180 such products are under mandatory certification and all these products have to conform to the notified Indian Standards. A copy of the list of these products and their corresponding Indian Standards are annexed herewith as **ANNEXURE 'A'**. In addition to the 90 products, there are many statutes, orders and notifications that mandate conformance with the standards prescribed by the Bureau for different products and processes. A copy of a non-exhaustive table containing a list of some of the statutes, orders and

notifications that mandate conformance with Indian Standards are annexed herewith as **ANNEXURE 'B'**.

31. These statutes, orders and notifications prescribe criminal and/or civil penalties for non-compliance with these standards. Hence, the standards are of great significance.

NOTIFICATION / PUBLICATION OF INDIAN STANDARDS

32. Section 2(39) of the BIS Act defines “Standards”

2(39). "standards" means documented agreements containing technical specifications or other precise criteria to be used consistently as rules, guidelines, or definitions of characteristics, to ensure that goods, articles, processes, systems and services are fit for their purpose

33. Section 2 (17) of the BIS Act defines Indian Standard:

Indian Standard" means the standard including any tentative or provisional standard established and published by the Bureau, in relation to any goods, article, process, system or service, indicative of the quality and specification of such goods, article, process, system or service and includes--

- (i) any standard adopted by the Bureau under sub-section*
- (2) of section 10; and*

(ii) any standard established and published, or recognised, by the Bureau of Indian Standards established under the Bureau of Indian Standard Act, 1986 (63 of 1986), which was in force immediately before the commencement of this Act

34. Section 2(24) of BIS Act provides:

“notification” means a notification published in the Official Gazette and the expression “notify” or “notified” shall be construed accordingly.

35. Section 10(4) of BIS Act provides:

“The Indian Standard shall be notified and remain valid till withdrawn by the Bureau”

36. Rule 15(2) of the Bureau of Indian Standards Rules, 2016 (**‘BIS Rules’**) requires notification in the Official Gazette of the standards. Rule 15(2) provides:

“All Indian Standards, their revisions, amendments and withdrawal shall be established by notification in the Official Gazette.”

37. Rule 22(5) and (6) of BIS Rules provide:

“22(5). The draft Indian Standards issued under sub-rule (4) shall be finalised by the concerned sectional committee after giving due consideration to the comments that may be received

and the draft so finalised shall be submitted to the Chairperson of the concerned Division Council for adoption of the Standard.”

“22(6). the standard so adopted under sub-rule (5) shall be notified by the Bureau.”

38. Rule 24 of BIS Rules provide:

“24. Indian Standards to be binding in certain cases – (1) Save as otherwise provided in sub-rule (2), the Indian Standards are voluntary and their implementation depends on adoption by concerned parties.

(2) An Indian Standard shall be binding if it is stipulated in a contract or referred to in a legislation or made mandatory by specific orders of the Government.”

39. On a combined reading of the aforementioned Sections and Rules, it is apparent that the scheme of the BIS Act requires that any Indian Standard, be compulsorily and in its entirety be published / notified by BIS in the Official Gazette.

40. Despite that, Respondent No. 2 only notifies in the official gazette the Indian Standard title and number and states that a copy of such Indian Standard will be furnished only upon the payment of a fee (which is exorbitant – for instance the cost of purchasing an entire set of Indian Standards on DVD lease for one year for a single simultaneous user is INR 419,800). This practice is not only contrary to the scheme of the

BIS Act as illustrated above but also contradicts the main objective of the BIS which is *“to protect the interest of the consumers”* and *“promotion of quality in connection with any goods, article, process, system or service by creating awareness among the consumers and the industry and educate them about quality and standards in connection with any goods, article, process, system and service”* (Section 9(2)).

41. Although the BIS Act and Rules note that Indian Standards will have the force of law, it is to be noted that Rules 25 of the BIS Rules provide for publication of Indian Standards subject to payment of fee. The Petitioners respectfully submit that the policy of charging fee and preventing Petitioners from making these to be freely and easily available and accessible to citizens of India, is violative of Articles 14, 19 and 21 of the Constitution and against the pith and substance of the Act.

GENERATING PROFIT BY SALE OF INDIAN STANDARDS

42. As stated above, the Indian Standards prepared by the Bureau are not generally made available in its publications or on its website and are made available only upon sale.
43. This practice is not only contrary to the scheme of the BIS Act as illustrated above but also contradicts the main objective of the BIS which is *“to protect the interest of the consumers”* and *“creating*

awareness among the consumers and the industry and educate them about quality and standards in connection with any goods, article, process, system and service” (Section 9(2)).

44. Due to the exorbitant fee levied by BIS and a further prohibition against freely publishing the Indian Standards as set out under Section 11 of the BIS Act – the Indian consumer is completely unaware as to what Indian Standard apply to the goods and services obtained by them much less enforce their rights under Section 31 of the BIS Act for goods / services which do not comply with the Indian Standards.
45. BIS – is acting as a capitalist corporation in giving preference to generating profits through sale of Indian Standards at exorbitant prices rather than promoting consumer welfare through freely publishing / disseminating the Indian Standards as required under the BIS Act.
46. It is pertinent to note that for the financial year ended March 2017, BIS earned a total income of Rs. 478 crores and a profit of Rs. 240 crores after deducting expenditure of Rs. 216 crores. For the financial year that ended in March 2016, the income was Rs. 390 crores and a profit of Rs. 180 crores after deducting total expenditure of Rs 210 crores. The financial statements of BIS reflect an increasing percentage of income every year. Further, income from sales and services seems to have significant contribution to the total income of BIS being 438 crores in the financial year 2016-2017. A copy of the Annual Reports of

Respondent No. 2 for the years 2013-14, 2014-15, 2015-16, 2016-17 as obtained from its website is attached as **ANNEXURE 'C' Colly.**

47. It is reiterated that the BIS is a statutory body incorporated to further the goal of standardization, quality assurance and conformity assessment of goods, articles, processes, systems and services and to satisfy customer needs of quality. It is a public body incorporated by an act of legislature to further the duties of the State contemplated under the Constitution. BIS undertakes the activity of standardization to boost economic growth in India and ensure competitiveness of Indians goods and services in the global market. It is an instrumentality of state which is expected to act in the best interest of the public at large. Therefore, it is against the very essence of incorporation of the BIS to earn profits out of sale of standards formulated and adopted for manufacturer of goods, services, articles and systems. The State, cannot earn profits out of services it provides to the public towards fulfillment of its duties as a welfare state. Similar statutory bodies, such as the Food Safety and Standards Authority of India, provides food safety standards for free and ready access on their website. At best, nominal charges or base charges can be imposed for provision of public services, such as to cover costs incurred. The price at which standards are sold by the BIS are exorbitant and hence the mechanism of sale provided under the BIS Act is not public spirited. Further as stated earlier, the financial statements of BIS illustrate high amount of income generated, including from sale of standards, which is against the public policy of India as a welfare state.

48. BIS sells Indian Standards and Special publications through 24 different sales outlets located at the Headquarters (HQs), Regional offices and Branch Offices. Sale is also done through registered booksellers. BIS also sells foreign standards (ISO, IEC, BSI London, DIN Germany, JIS Japan) in India. BIS sells Indian Standards through its e-portal. Standards can be downloaded in the form of soft copy. Alternatively, an order for hard copy can be placed through the e-portal. Online payment can be made over the portal through credit/debit card. BIS also has a system of payment through DD/ pay order for customers whose e-purchase is more than Rs. 50,000. Customers can also make payment for standards through NEFT/RTGS (online transfer) in BIS bank account directly. The Indian Standards are also available as a complete set in DVD or 14 different department/ sector specific sets like civil engineering, electrical engineering, mechanical engineering, textiles, etc, on lease. For the ease of customers, a touch screen kiosk, connected to BIS e-portal (www.standardsbis.in), has been installed at the Sales Department of BIS HQs. The customer can search the standard of their requirement, see the price of standards, scope, amendments, etc.
49. All Indian Standards formulated by Respondent No.2 including the Indian Standards that are applicable to products that fall within the mandatory product certification regime and standards that require mandatory compliance due to their incorporation in various statutes, orders and notifications can be accessed only by way of purchasing them from Respondent No.2. There are three ways of purchasing the Indian Standards:

- a. Purchasing a Hard Copy of the standards through Sales Outlet/ Offices designated by Respondent No.2,
- b. Leasing the standards through DVD. The lease is provided for a period of one year and can be renewed annually. The cost of DVD lease varies from the number of simultaneous users,
- c. The Soft Copy of the of the standards can be purchased through the website of Respondent No.2 (i.e., by downloading documents)

<http://www.standardsbis.in/Gemini/home/Home.action>

50. The cost of purchasing a Hard Copy and Soft Copy of Indian Standards is the same. The cost of purchasing Indian Standards separately for each division ranges from INR 95,040.00 to INR 498,060.00. The cost of purchasing an entire set of Indian Standards on DVD lease for one year for a single simultaneous user is INR 419,800 and Indian Standards for each division range from INR 10,400 to INR 49,600. A copy of the breakup of the cost for accessing Indian Standards in Hard Copy, Soft Copy and DVD lease format is attached as **ANNEXURE 'D'**.
51. The BIS Standards are divided into 14 different technical divisions and standards categorized in each of the 14 different divisions can be purchased separately. However, to comply with the BIS standards for the production a manufacturer will be required to buy several standards under any of the 14 different divisions since purchasing a single standard is not adequate to comply with the requirements under law. Hence, any person wishing to abide by these BIS Standards will be

forced have to purchase multiple standards or an entire set of standards whose costs are substantially higher than that of an individual standard.

52. Indian Standards formulated by Respondent No.2 ensures the safety, efficacy, consistency and quality of products being manufactured and processes adopted in manufacture of goods in India. Thus, knowledge of these standards is very important to academics, consumers and manufacturers.

**PETITIONER'S ATTEMPT TO SPREAD AWARENESS OF
INDIAN STANDARDS THWARTED BY THE VERY ENTITY
CHARGED WITH THE DUTY TO SPREAD AWARENESS**

53. In an attempt to further spread knowledge of the Indian Standards for the benefit of the general public and the inspiration Mr. Malamud, being President of Petitioner No.1, derived from the 2006 Report of the National Knowledge Commission chaired by Mr. Sam Pitroda, which emphasized that "*people's access to knowledge can transform India's potential*", Petitioner No.1 subscribed to the DVD's containing the Indian Standards and made the Indian Standards available to a broader audience on the Internet completely free of cost for non-commercial usage.

54. Petitioner No. 1 informed the Director General of Respondent No.2, vide letter dated 25.06.2014, of Petitioner No. 1's keen interest to renew subscription for DVDs of Indian Standards with the option of one

update every 6 months, and also offering its services to make such subscription and update services better. However, Petitioner No. 1 received a letter dated 01.08.2014 from the Director (Sales) of Respondent No.2 ('Director') stating that Respondent No. 2 did not appreciate the efforts of Petitioner No.1 in making available the Indian Standards widely to the general public free of cost and this was against their copyright policy and the terms and conditions of purchase of DVDs. This letter also stated that Petitioner No.1's contract for purchase of DVDs of Indian Standards will be terminated and further legal action under the Copyright Act, 1957 ('Copyright Act') will be initiated if Petitioner No.1 fails to remove all the Indian Standards from its website within a week's time.

55. Petitioner No. 1 responded to Director's letter through an email dated 02.08.2014, acknowledging the contribution of Respondent No.2 and appreciating Respondent No.2's wonderful work. Petitioner No. 1 further also accepted that he had made available Indian Standards in furtherance of their efforts to make such crucial Indian Standards widely available, while stressing on the need to make the Indian Standards freely available to the public in pursuance of transparency and good governance as envisaged by the fundamental right of every citizen of India to know under Article 19(1)(a) of the Constitution as further detailed in the Right to Information Act, 2005 ('RTI Act').
56. It is important to note that while the Petitioner No.1 has made Indian Standards easily and freely accessible on its website, the Petitioner No.1

has not charged any sum in respect of the same. As stated hereinabove, the Petitioners are committed to the values enshrined in the Constitution and are only seeking to empower citizens of India such that they may be aware of crucial legal standards and that such standards can also be enforced against manufacturers.

57. Petitioners humbly submit that they are not seeking publication and free access to Indian Standards for manufacturers for whom such Indian Standards are mandatory. Petitioners are seeking publication and free access to Indian Standards for consumers who are not aware of standards that are mandatory for manufacturers and enforceable against manufacturers.
58. Apart from the correspondence that was exchanged between the Petitioner No.1 and the Bureau as mentioned in paragraph 25 hereinabove, Petitioner No.1 also filed a detailed petition with Respondent No. 1 on October 25, 2014. However, Director rejected this petition through a letter dated June 8, 2015. A copy of the letter and the petition as mentioned hereinabove is attached as **ANNEXURE 'E' COLLY**. It is submitted that, access of such information to the members of the public and citizens is imperative for protection and enforcement of their rights. As submitted above, the Central Government has the power and has indeed exercised the power to prescribe standards for products and processes. Prescription of standards without giving publicity is counter-productive and hence, Petitioners strongly believes in dissemination of knowledge and empowering citizens of India.

59. Petitioners 1, 2 and 3 are known to each other and strongly believe the cause of dissemination of information and free and easy access of information for the public. It is with this objective in mind that Petitioners have come together and approached this Hon'ble Court. None of the Petitioners have any financial interest in the present petition and would not stand to gain as a result of this petition. Petitioner No. 2 believes he is making a contribution to India, an endeavor all citizens should strive for. He strongly believes that every Indian should be legally aware of his rights and the law governing them and by providing these legislations, regulations, notifications and Indian Standards he is providing free and easy access to the required resources to every citizen to enable him to stand up for his right provided under law. Petitioner No. 3 believes that these Indian Standards are a crucial resource to contribute to the development of India. Thus, all three Petitioners strongly believe in this cause and working in fields which seek to empower citizens of India. Towards these common objectives all three Petitioners came together for the present writ petition.

60. It is respectfully submitted that enforcement of standards and obligations of manufacturers will be substantially affected if the Petitioners are wrongfully and unfairly deprived of their rights and information under the law of the land. It is submitted that given the vast number of standards and the number of manufacturers, logistically as well, it becomes impractical for the Respondents to enforce each and every standard. Independent manufacturers do not disclose standards of

their respective products, except to say whether it is compliant with Indian Standards or not. A consumer or member of the public has no way of ascertaining whether the product sought to be consumed should mandatorily comply with standards as per Section 16 of the BIS Act and more importantly, what such standards should be.

61. It is respectfully submitted that when the BIS Act provides a right, there must be an effective remedy. Consequently, the BIS Act and the obligations it imposes on manufacturers and the duty that is cast on the Bureau and the Director, will have to be read in a manner that facilitates and furthers the objectives of the BIS Act rather than frustrate the objectives of the BIS Act.
62. It is submitted in this regard that the responses of Respondent No.2 are contrary to the object and purpose of the BIS Act and are in violation of the rights of citizens of India. It is humbly submitted that an approach that shrouds standards in secrecy and imposes prohibitive costs on the same, is completely in violation of the rights of citizens of India and also defeats the purpose of the BIS Act. It is further submitted that standards which are not notified in accordance with the law laid down by the Supreme Court cannot be law of India and further, Respondents cannot put a price on the notification of standards for the purpose of compliance with the procedure established by law.
63. Petitioners have no other option or right but to approach this Hon'ble Court to enforce its / their rights under the Constitution and the BIS Act.

Petitioners made representations before the Respondents however, since the Respondents did not respond and as the issue is of public importance, the Petitioners have approached this Hon'ble Court. Since the receipt of response of Respondent No.2 by Petitioner No.1, Petitioners have sought to obtain more information regarding functioning of Respondent No.2 and the role played by Indian Standards in India.

64. It is therefore humbly submitted that the Section 11 of BIS Act should be struck down and the Respondents should be directed to make available, BIS Standards at free / concessional rates on, *inter alia*, the following grounds:

GROUND

65. Because it is the obligation of Respondent No. 2 to publish the Indian Standards, in their entirety, in the Official Gazette.

Entire content of the Indian Standard has to be published in the Official Gazette

- a. Respondent No. 2 only notifies in the official gazette the Indian Standard title and number and states that a copy of such Indian Standard will be furnished only upon the payment of a fee. A copy of a notification establishing a standard by Respondent No. 2 is enclosed herewith as **ANNEXURE 'F'**. This is a clear violation of Respondent No.2's obligation under the BIS Act and Rules. The Petitioners respectfully submit that the policy of

charging fee and preventing Petitioners from making these to be freely and easily available and accessible to citizens of India, is violative of Articles 14, 19 and 21 of the Constitution as well as the objects and scheme of the Act discussed in paras 18 to 26 above.

- b. The meaning of the term notification is clear, namely, that it is an instrument, by publishing which in the Official Gazette, an action of Respondent No. 2, such as making a rule or a regulation, or exercise of some power conferred by statute (more particularly establishment of Indian Standards) is brought to the notice of the public. A notification published in the Official Gazette means a notification published by the authority of law. Respondent No. 2 therefore, has a duty to notify the entire Indian Standard in the Official Gazette. By not publishing the entire contents of the Indian Standards, Respondent No. 2 is acting arbitrarily and outside of its power conferred under law.

Non-publication of entire Indian Standards is against the objects of BIS Act

- c. It is submitted that unless the entire Indian Standards are published in the official gazette, there can be no harmonious development of the activities of standardisation, conformity assessment and quality assurance of goods, articles, processes, systems and services. If the general public, student body, scholars,

technicians are not aware of the standards required to be followed or enforced, it would not result in the development of an ecosystem which the Act seeks to achieve.

d. Further, Section 9(2) of the BIS Act provides:

“the Bureau shall take steps for promotion, monitoring and management of the quality of goods, articles, goods, articles, processes, systems and services, as may be necessary, to protect the interests of consumers and various other stake holders which may include the following namely:-

(a)...

(b) promotion of quality in connection with any goods, article, process, system or service by creating awareness among the consumers and the industry and educate them about quality and standards in connection with any goods, article, process, system and service;

(c)...

(d)...

(e) promoting the use of Indian Standards;

(f)...

(g) coordination and promotion of activities of any association of manufacturers or consumers or any other body in relation to improvement in the quality or in the implementation of any quality assurance activities in

*relation to any goods, article, process, system or service;
and;*

(h) such other functions as may be necessary for promotion, monitoring and management of the quality of goods, articles, processes, systems and services and to protect the interests of consumers and other stake holders.”

- e. It is submitted that the Bureau will not be able to perform the above-mentioned functions without making Indian Standards freely available to the public. Awareness among consumers can only be spread if they are aware of the Indian Standards that the products need to comply with. It will also result in identifying manufacturers who falsely represent that their products comply with the Indian Standards.
- f. It is therefore, of utmost importance that the words of the legislature (Section 10(5) of BIS Act) are read and given effect to in both letter and spirit, in so far as they direct Respondent No. 2 to establish the Indian Standards by notification in the official gazette.

Indian Standards are established only when they are made known to public in their entirety

- g. From a bare perusal of Section 10(4) read with Section 2(24) of BIS Act, it is clear that the intent of the legislature is in fact to

make the entire standard known to public by notification in the Official Gazette. *De hors* such intention, the legislature would not have made it mandatory for the Indian Standards to be established by notification in the Official Gazette.

- h. In a landmark English case of *Johnson v. Sargant (1918) 1 KB 101*, an order of the Food Controller called the Beans, Peas, and Pulse (Reacquisition) Order, 1917 was made on May 16, 1917, but was in effect published or made known to the traders on the morning of May 17, 1917. It was held that the order did not take effect until the morning of May 17, 1917. The reasoning of the decision is that statutes of Parliament get antecedent publicity as they are publicly enacted. But this is not true of the delegated legislation which does not receive prior publicity and it does not come into operation unless it is made known. The case of *Johnson v. Sargant (supra.)* was expressly approved by the Supreme Court in *Harla v. State of Rajasthan, AIR 1950 SC 467*.
- i. In the case of *B.K. Srinivasan v. State of Karnataka (1987) 1 SCC 658*, where the statute itself required the publication of the delegated legislation and where the finding was that there was publication as required by the statute, the Supreme Court made general observations which supported the view that publication in some suitable form, even if not specifically required by the

statute, is essential for making the delegated legislation effective.

The court in this case observed:

“Unlike Parliamentary legislation which is publicly made, delegated legislation or subordinate legislation is often made unobtrusively in the chambers of a minister, a secretary to the Governor or the official dignitary. It is therefore, necessary that subordinate legislation, in order to take effect, must be published or promulgated in some suitable manner, whether such publication or promulgation is prescribed by the parent statute or not. It will then take effect from the date of such publication.”

- j. The Supreme Court in the case of *Harla v. State of Rajasthan* [AIR 1951 SC 467] also held:

“Natural Justice requires that before a law can become operative it must be promulgated or published. It must be broadcast in some recognizable way so that all men may know what it is, or, at the very least, there must be some special rule or regulation or customary channel by or through which such knowledge can be acquired with the exercise of due and reasonable diligence.

The Jaipur Laws Act of 1923 required the whole of the enactment to be published; therefore publication of only one section would not validate it if it was not already valid...”

- k. Thus, actions of the Respondents are completely contrary to law in as much as the entire standards are not published and made available. The Respondents action of merely issuing notification

of the standards is not in compliance with the meaning of Section 10(4) read with Section 2(24) of the BIS Act and Rule 15(2) and 22(6) of the BIS Rules. It is submitted that the Respondents are not complying with their obligation of publication under the BIS Act and hence, the actions of the Respondents are contrary to BIS Act and ought to be struck down.

1. It is further submitted that the actions of Respondents are arbitrary in as much as the decisions of Respondents are not being determined by relevant factors which the BIS Act has been enacted for. It is submitted that when powers and discretion have been conferred on the Bureau, the Bureau is bound to exercise such power and discretion in a manner that would further the objects of the BIS Act.

Non-publication of entire Indian Standards is also violative of Directive Principles of State Policy

- m. The Directive Principles of State Policy enshrined in the Constitution are fundamental in the governance of the country and it shall be the duty of the State to apply these principles in making laws.
- n. As will be shown in the paragraphs herein below, non-publication of entire Indian Standards is also violative of the Directive Principles of the State Policy.
- o. Article 38 of the Constitution provides:

“The State shall, in particular, strive to minimize the inequalities in income, and endeavor to eliminate inequalities in status, facilities and opportunities, not only amongst individuals but also amongst groups of people residing in different areas or engaged in different vocations.”

p. By not publishing the entire Indian Standards in the Official Gazette and selling it at exorbitant prices, Respondent No. 2 is effectively creating inequality between persons. A large body of students, professors, scholars, small manufacturers, consumers are deprived of the knowledge of the Indian Standards because of the exorbitant prices charged by Respondent No. 2. The opportunity to access the Indian Standards is available to only a handful of persons who have the means to purchase them.

q. Further Article 39(b) of the Constitution provides:

“The state shall, in particular, direct its policy towards securing –

...

(b) that the ownership and control of the material resources of the community are so distributed as best to sub serve the common good;

....”

r. Indian Standards are a material resource of the community. They are established through Respondent No. 2 for the benefit of the

community at large. Respondent No. 2 itself is established to discharge its functions for the benefit of the community by the Legislature. Accordingly, Respondent No. 2 cannot seek to claim ownership and control of Indian Standards and restrict their access to general public. Actions of Respondent No. 2 cannot trump the common good which the BIS Act seeks to achieve.

s. Further Article 39(c) of the Constitution provides:

“The state shall, in particular, direct its policy towards securing –

...

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

....”

t. If Indian Standards are not published in the Official Gazette in its entirety, it will result in concentration of knowledge regarding the means of production of the right quality of goods to only a handful of people.

u. Further, Article 47 of Constitution provides:

“The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal

purposes of intoxicating drinks and of drugs which are injurious to health.”

- v. Publishing the Indian Standard in the official gazette or making them available to general public at large will directly affect the standard of living of the people. As people become more aware of what constitute good quality products or articles, they would be inclined to purchase goods or articles that meet the Indian Standards. This will further result in more and more manufacturers competing to adhere to the Indian Standards. Ultimately, it will result in promotion of more consumer awareness and development of healthy competition amongst the manufacturers.

- w. In light of the above, it is submitted that non-publication of standards in the Official Gazette is therefore, a violation of due process by Respondent No.2 and goes entirely against the ideals and principles of the Constitution and BIS Act.

66. Because the citizens of India have a fundamental right to know the Indian Standards under the fundamental rights guaranteed to them under Article 14, Article 19 and Article 21 of the Constitution, particularly when such Indian Standards are law and which directly affect their health and safety and are related to the governmental policies aimed at

promoting standardization for public welfare and are expected to be adhered to by the members of trade.

Indian Standards are law

- a. Indian Standards are law as per Article 13 of the Constitution and Respondents cannot impose a price on the same. Laws enacted by the legislature are to be freely and easily accessible particularly when the same affect the rights and obligations of millions of citizens. The charges levied by Respondent and the manner in which the same are made available to the public is contrary to the purpose for which the BIS Act was enacted, contrary to strengthening information and rights available to consumers and violative of the Constitution.

Penal consequences for non-compliance with Mandatory Standards under law

- b. Indian Standards established by the Bureau are either mandatory or directory in nature. Section 17 of the BIS Act provides that no persons shall manufacture, import, distribute, sell, hire, lease, store, or exhibit for sale any such goods, article, process, system or service which have been notified under Section 16(1) (“**Mandatory Standards**”), without a Standard Mark or unless such goods, articles, process conform to the relevant standard. Section 29(3) of the BIS Act provides that any person who is in contravention of Section 17 of the BIS Act shall be punishable with imprisonment for a term which may extend upto two years

or with fine which shall not be less than Rs. 2,00,000/- (Rupees Two Lakh) for first contravention and not less than 5,00,000/- (Rupees Five Lakh) for second contravention and subsequent contraventions, but may extend upto 10 times the value of goods/ articles to be sold or offered to be sold. Thus, non-compliance with the Mandatory Standards invite penal consequences.

- c. Further, Rule 24(2) of the BIS Rules provide that an Indian Standard shall be binding if it is stipulated in a contract, or referred to in a legislation or made mandatory by specific orders of the Government. Therefore, standards whether mandatory or otherwise are in fact law.

Standards are in the nature of rules, guidelines

- d. Further, Section 2(39) of the BIS Act provides the definition of term “standards” as:

“2(39). "standards" means documented agreements containing technical specifications or other precise criteria to be used consistently as rules, guidelines, or definitions of characteristics, to ensure that goods, articles, processes, systems and services are fit for their purpose”

- e. In view of the above definition, it is clear that “standards” are to be used as rules or guidelines or definitions of characteristics to ensure the goods are fit for their purpose

Establishment of Indian Standard is in the nature of subordinate legislation

f. Indian Standards are statutory instruments made by Respondent No. 2 in exercise of its power delegated by the Legislature under the BIS Act. When an instrument of legislative nature is made by an authority in exercise of power delegated or conferred by the Legislature, it may take the form of subordinate legislation. It is subordinate in the sense that the powers of the authority which makes it are limited by the statute which conferred the power and, consequently, it is valid only in so far as it keeps within those limits. Accordingly, the Legislature has given the power to Respondent No. 2 to establish Indian Standards by publishing in the Official Gazette.

Authorities under the BIS Act are public authorities discharging a public function

g. As per Section 3 of the BIS Act, the Governing Council of the BIS is responsible for the general superintendence, direction and management of the affairs of the Bureau. The said Governing Council comprises:

- i. Hon'ble Minister for Consumer Affairs, Food and Public Distribution, Government of India, as President, *Ex-officio*;
- ii. Hon'ble Minister of State for Consumer Affairs, Food and Public Distribution, Government of India, Vice President, *Ex-officio*;
- iii. Secretary, Department of Consumer Affairs, Government of India, Member, *Ex-officio*;

- iv. Director General, Bureau of Indian Standards, New Delhi -
110002 Member, *Ex-officio*;

Members of Parliament

- v. Shri Bhola Singh, Member, Lok Sabha Member
vi. Shri Mahesh Poddar, Member, Rajya Sabha Member

**Representatives of the Ministries and Departments of
the Central Government**

- vii. Special Secretary/Additional Secretary/ Joint Secretary,
Department of Consumer Affairs, Member
viii. Additional Secretary and Financial Adviser, Ministry of
Consumer Affairs, Food and Public Distribution, Member
ix. Additional Secretary/Joint Secretary, Department of
Commerce, Member

**Representatives from the State Governments and the
Union Territories**

- x. Minister-in charge of the Department having administrative
control over quality and standards of State of Haryana,
Member
xi. Minister-in charge of the Department having
administrative control over quality and standards of State
of Odisha, Member
xii. Minister-in charge of the Department having
administrative control over quality and standards of State
of Maharashtra, Member

xiii. Minister-in charge of the Department having administrative control over quality and standards of State of Karnataka, Member

xiv. Minister-in charge of the Department having administrative control over quality and standards of State of Sikkim, Member

Representatives of Recognized Consumer Organizations and Persons representing Consumer interest

xv. Trustee, Grahak Panchayat, Member

xvi. Shri Parvez Ahmed Khan, Bhavishya Educational and Charitable Society, Member

Persons representing Farmers' interests or Farmers Associations

xvii. Dr. E. Muthuraman, Member

Representatives of Industry Associations or Federations of All-India Level

xviii. President, Confederation of Indian Industry (CII), Member

xix. President, Federation of Indian Chambers of Commerce and Industry (FICCI), Member

xx. President, Associated Chambers of Commerce and Industry of India (ASSOCHAM), Member

Chief Executive of Central or State Public Sector Enterprise

xxi. Managing Director, Solar Energy Corporation of India
(SECI) Ltd., Member

xxii. Chairman or Managing Director of Industrial
Organization who is awardee of a National or an
International Award for Quality;

xxiii. Chairman and Managing Director, Power Grid
Corporation of India Ltd., Member

**Representative of Scientific and Research Institutions,
Technical, Educational and Professional Organizations**

xxiv. Prof. Sounak Kumar Choudhury, Department of
Mechanical Engineering, Indian Institute of
Technology (IIT), Kanpur, Member

xxv. Director, Central Electronics Engineering Research
Institute (CEERI), Member

xxvi. Dr. Shirish B. Patil, Vice Chancellor, D.Y. Patil
University, Member

Representative of Regulatory Authorities or bodies

xxvii. Chief Executive Officer, Food Safety and Standards
Authority of India (FSSAI), Member

**Representative of National Accreditation Boards or
bodies**

xxviii. Secretary General, Quality Council of India (QCI),
Institution of Engineers Building, Member

h. A copy of the Governing Council of the BIS, as available on its
website, is annexed and marked hereto as **ANNEXURE 'G'** The

Organizational Chart of the BIS, as available on its website, is also annexed and marked hereto as **ANNEXURE 'H'**;

- i. In view of the above, it is submitted that the Governing Council of the BIS mostly comprises public authorities. In overseeing the functioning of the Bureau and establishment of standards, they are obligated to discharge a public function under BIS Act in accordance with the object of the BIS Act.
- j. BIS Act, is a public welfare legislation. If establishing Indian Standards was a private function of the Bureau, the legislature would not have contemplated appointment of public authorities on Bureau's Governing Council to perform a private function. It would also not have obligated Respondent No. 2 to establish them by notification in the official gazette.

Only Indian Standards are required to be notified amongst all BIS publications

- k. Under the BIS Act and BIS Rules, the Bureau is entitled to come up with various handbooks, guides and other special publications, but only Indian Standards have been required by the BIS Act as well as the BIS Rules to be established by notification in the Official Gazette. Other publications of Bureau are not mandated to be published in the Official Gazette. In view thereof, the intent of the legislature is clear that the Indian Standards are statutory instruments established under the BIS Act.

Prior publication for critical review

- l. It is submitted that like all statutory instruments, Indian Standards too have to be widely circulated in the draft form among various interest groups for critical review and suggestion for improvements. It is only after giving due regard to the comments received, the Respondent No. 2 has to finalise the draft of the Indian Standard for adoption and thereafter publication in official gazette.

Establishment, amendment and withdrawal

- m. It is further submitted that like all statutory instruments, Indian Standards too, are mandated to be established, amended and withdrawn by means of notification in the official gazette only.
- n. Rule 15(2) of BIS Rules expressly provides:
“All Indian Standards, their revisions, amendments and withdrawal shall be established by notification in the Official Gazette.”
- o. Thus, in view of the aforementioned paragraphs it is submitted that Indian Standards which are established by Respondent No.2 in exercise of its powers delegated under BIS Act are in fact law.

Infringement of Right to Information

- p. It is submitted that the Supreme Court in *Secretary, Ministry of Information & Broadcasting v. Cricket Association of Bengal AIR*

1995 SC 1236 has held that the right to freedom of speech and expression includes the right to educate and also the right to inform. The freedom of speech is a fundamental right that protects the right to disseminate information. Petitioners by placing the Indian Standards on its website, are providing free and easy access to such crucial information to the general public of India. As stated above, Petitioners are providing access to Indian Standards free and are not charging any fee for access to these documents.

q. Hence, holding back important industry information from being published in public domain would be violative of the fundamental rights of students and the rights and interest of traders and manufacturers in practicing their profession. The Supreme Court in a series of decisions emanating from the *Maneka Gandhi v. Union of India* [1978 AIR 597, 1978 SCR (2) 621] has held that even if a right was not specifically named in the fundamental rights chapter of the Constitution, it may still be fundamental if the right is covered under some clause of the various articles and if it is an integral part of a named fundamental right under the Constitution. Following this decision, in *Inder Prakash v. Deputy Commissioner and Ors* [AIR 1979 Delhi 87] the Delhi High Court held that:

“the right to receive higher or professional education was itself a fundamental right, which would be spelt out of a number of clauses of Article 19(1) read with Article 21 of the Constitution of

India. If the right to receive the higher education or a professional education, which is a pre-requisite to practicing a particular trade or profession or to exercise some of the fundamental rights, such as the right to freedom of expression, be in themselves fundamental on the basis of the aforesaid theory, there be no escape from the conclusion that when the petitioner was sought to be deprived of the opportunity to pursue medical education by an improper order, the impugened action would constitute an infraction of his fundamental right.”

- r. Citizens of India therefore have a fundamental right in knowing what the law of the land is and a price cannot be imposed on ascertainment of such knowledge.
 - s. It is submitted that levying of charges and sale of publications at such high prices is an unreasonable restriction that violates fundamental rights and right to equality of citizens. Failure to make laws easily accessible deprives a citizen of due process of law.
67. Because Director (Sales) of Respondent No. 2 does not have the power under the Act to sell publications containing the Indian Standards which it is otherwise bound to make available free of cost or at nominal costs.

a. It is submitted that Rule 25 of the BIS Rules is unreasonable and arbitrary as the same does not have any guidelines and has conferred excessive discretion with no guidelines.

b. It is submitted that in the case of *Bureau of Indian Standards*

Vs. Director General of Income Tax (Exemptions) [(2013) 260 CTR (Del) 39], the Hon'ble Delhi High Court held:

“Even though it [BIS] does take license fee for granting marks/certification, the same cannot be said to be done for the purpose of profit. If any profit/revenue is earned, it is purely incidental. The BIS performs sovereign and regulatory function, in its capacity of an instrumentality of the state.

Apart from the controlling or parent statutes, like the BIS Act, these statutory bodies (including BIS) are empowered to frame rules or regulations, exercise coercive powers, including inspection, raids; they possess search and seizure powers and are invariably subjected to Parliamentary or legislative oversight. The primary object for setting up such regulatory bodies would be to ensure general public utility. The prescribing of standards, and enforcing those standards, through accreditation and continuing supervision through inspection, etc., cannot be considered as trade, business or commercial activity, merely because the testing procedures, or accreditation involves charging of such fees. It cannot be said that the public utility activity of evolving,

prescribing and enforcing standards, "involves" the carrying on of trade or commercial activity.

The BIS performs sovereign and regulatory function, in its capacity of an instrumentality of the state. Therefore, this Court has no doubt in holding that it is not involved in carrying any activity in the nature of trade, commerce or business."

- c. It is submitted that Respondent No.2 is a creation of a statute and a Government entity and is therefore 'State' within the meaning of Article 12 of the Constitution. Respondent No.2 is ostensibly carrying out functions which are provided for in Entry 50 and Entry 51 of the Constitution. Consequently, Respondent No.2, as State, cannot be permitted to charge exorbitant and prohibitive charges while discharging a sovereign function. Further, Respondent No.2 cannot prevent others from making such information easily accessible to the citizens of India.

68. Because a public authority cannot withhold any information from public on account of copyright infringement if the said copyright subsists in the State. Wrongfully withholding such information is contrary to the procedure established by law and violative of the rights of the people of India and its constitution.

- a. Section 9 of the RTI Act provides:

"Without prejudice to the provisions of section 8, a Central Public Information Officer or State Public Information Officer, as the

case may reject a request for information where such a request for providing access would involve an infringement of copyright subsisting in a person other than the State.”

- b. The Delhi High Court, in *DMRC v. Sudhir Vohra* [2011 IAD (Delhi) 369] held:

“Clearly the words 'other than the State' at the end of Section 9 RTI Act reflect the legislative intent that the exemption from disclosure is available only where such disclosure involves infringement of a copyright subsisting in a person other than the State. There is no discretion to refuse when it comes to disclosure of information pertaining to a copyright subsisting in the State. The DMRC cannot refuse the information sought even if it might involve infringement of its copyright in the design pertaining to the cantilevered bracket of Metro Pillar No. 67.”

- c. Respondent No.2 has claimed copyright on all publications of Respondent No.2. A copy of the Indian Standard ‘Steel Tubes for Mechanical and General Engineering Purposes- Specification’ is annexed herewith as **ANNEXURE ‘I’**. At page 18 of the annexed Indian Standard, Respondent No. 2 has claimed copyright in all its publications. It is submitted that Respondent No.2 being a statutory body performing a sovereign function has to disclose all the Indian Standards under a Right to Information Application being made under the RTI Act. Respondent No. 2 cannot withhold

access to the Indian Standards on the ground that it would result in copyright infringement.

- d. It is further submitted that Indian Standards are to be established by a notification in the official gazette by Respondent No. 2 a body under the State. Hence, as mentioned in above paragraphs, Indian Standards are also law within the meaning of the Constitution. Consequently, there can be no copyright in respect to such law. It is submitted that the Respondents anyway have a statutory monopoly in creation, setting of standards and certifying programs and hence, cannot abuse this position of power to its own advantage and to the prejudice of citizens of India.

- e. It is submitted that as per Rule 22(4) of BIS Rules, the Indian Standard prepared by the sectional committee has to be issued in the draft form and widely circulated for a period of not less than one month amongst the various interest groups for critical review and suggestion for improvements. Thereafter, the draft has to be finalized by the sectional committee after giving due consideration to the comments received. Accordingly, the final Indian Standard on which Respondent No. 2 is so forcefully asserting its copyright may not even be entirely the result of its own work.

f. It is submitted that in light of the statutory monopoly that, Respondent No.2 has, in being granted a right to claim copyright violation is only subjecting a citizen to double jeopardy. It is submitted that no person or authority or State can claim copyright in respect of laws which are to be enforced in India. It has been held by this Hon'ble Court that judgments reported by courts of law do not have any copyright and consequently, Respondent No. 2 cannot claim any copyright in respect of Indian Standards published by it.

g. It is further submitted that Section 52(q)(i) of the Copyright Act entails that the reproduction or publication of any matter which has been published in any Official Gazette except an Act of Legislature, shall not constitute an infringement of copyright. The standards established by the Bureau are required to be published in the Official Gazette and therefore any publication thereof shall not constitute a copyright infringement. The Bureau therefore, cannot be allowed to claim copyright infringement merely because it does not publish complete standards in the Official Gazette.

69. Because Respondent No. 2's act of charging royalty on its copyright on the Indian Standards is against public policy:

- a. It is submitted that the Indian Standards promulgated by Respondent No. 2 are in a multitude of areas such as cosmetics, medical devices, disinfectants, steel products, internal combustion engines, clinical thermometers, oil pressure stoves, solvents for use in the extraction of vegetable oils, gas cylinders, X-Ray devices, infant foods, electrical wirings, lifts and escalators, ropeways, cable televisions, pneumatic tyres and every other aspect of our modern life. Each of these Indian Standards have a significant impact on the public safety of the citizens of India. It is submitted that some of these Indian Standards that are promulgated under Section 16 of the BIS Act are mandatorily to be complied with and there are criminal liabilities prescribed under the BIS Act for non-compliance.

- b. It is submitted that as a matter of policy, allowing Respondent No. 2 to monopolize publication and distribution of the Indian Standards that have significant impact on the public safety of every citizen of India is detrimental to the interest of society.

- c. Indian Standards are divided into 14 different technical divisions and standards categorized in each of the 14 different divisions can be purchased separately. This option is available for the Hard Copy, Soft Copy and DVD option. The cost of purchasing Indian Standards separately for each division ranges from INR 95,040.00 to INR 498,060.00. The cost of purchasing an entire set of Indian

Standards on DVD lease for one year for a single simultaneous user is INR 419,800 and Indian Standards for each division range from INR 49,600 to INR 10,400. It is submitted that these amounts clearly illustrate that Respondent No. 2 is charging exorbitant prices, which is in the nature of royalty to access information that affect the public safety of every citizen in India while performing a sovereign function. It is submitted that this act is completely against public policy.

- d. Further, it is submitted that buying a single Indian Standard, is forced to buy the Indian Standard for the entire technical group, in which the Indian Standard he is seeking is a part. It is submitted that this practice of bundling by Respondent No.2 is complete abuse of its dominant power and the unilateral imposition of unfair terms on buyers.
- e. Thus, it is submitted that allowing Respondent No.2 to levy and charge any fees is completely contrary to public policy and deserves to be struck down as being violative of Article 14, Article 19 and Article 21 of the Constitution.
- f. It is further submitted that charging such high prices to educational institutions imparting knowledge and information on Indian Standards causes the cost of education to increase, imposes a burden on students and violates their right to information.

70. Because prohibiting sale of Indian Standard would not adversely impact Bureau's revenues and its profits.
- a. Sale of Indian Standard constitute only 1.44 % of its total revenues and only 2.75 % of its profits.
71. Because Section 11 of the BIS is completely arbitrary, unreasonable and against the principles of the BIS Act and *ultra vires* the Constitution.
- a. Section 11 prohibits individuals from publishing, reproducing or recording any Indian Standard or any other publication of the Bureau. It is submitted that Section 11 of the BIS Act, in so far as it prohibits publishing of Indian Standards by individuals is against the object of the BIS Act as well as *ultra vires* the Constitution.
 - b. As shown in the paragraphs above, compelling individuals to purchase the Indian Standards at exorbitant prices is violative of Article 14, 19 and 21 of the Constitution. Curtailing the right of individuals to freely disseminate the standards which should already be in public domain by virtue of being published in the Official Gazette infringes fundamental rights of the citizens.

72. Because Section 9(g) of the BIS Act and Rule 25 of BIS Rules are completely arbitrary, unreasonable and against the scheme of the BIS Act and *ultra vires* the Constitution.

a. Section 9(g) of the BIS Act gives power to Respondent No. 2 to publish Indian Standards and sell such publications and publications of the international body.

b. It is submitted that this is entirely against the object which BIS Act seeks to achieve. Public welfare is the *raison d'être* of the BIS Act. It is enacted to ensure that highest standard of safety and quality is maintained in the products that are manufactured and sold in the country. The BIS Act authorises Respondent No. 2 to come up with the Indian Standard for the benefit of consumers. It is surprising that Respondent No. 2, by virtue of the BIS Act, is now abusing that power by selling it at exorbitant prices, thereby denying access to same public in whose benefit it is formulating such standards.

c. Similarly, Rule 25 of the BIS Rules which authorizes BIS to sell the Indian Standards at a price which may be determined by BIS is also arbitrary, unreasonable and against the scheme of the BIS Act and *ultra vires* the Constitution.

d. It is submitted that Respondent No. 2 is an arm of the Government and is not established to generate income at the cost of the general public. By charging exorbitant amounts it is acting like a private corporation with a clear intent to make and increase its profits.

e. In view of the paragraphs 64 – 68, it is therefore, submitted that both Section 9(g) of the BIS Act and Rule 25 of the BIS Rules be struck down as *ultra-vires* the constitution or in the alternate - interpreted to mean that BIS may sell the Indian Standards at a *nominal price* as determined by BIS.

73. Because the actions of Respondents are completely contrary to settled and accepted international practices which recognize free and easy access of information, particularly laws, to citizens of a country.

a. Clause 29 of the Magna Carta, also recognises the fact that Justice and Right should not be sold to anyone or denied or deferred to any man.

“We will sell to no man, we will not deny or defer to any man either Justice or Right”

b. This Clause seeks to curb the issue wherein justice and access to law was not being available to everyone and at very arbitrary or no cost. This cause aims to restrict the denial of access to justice and law without any valid reason.

- c. It is a settled principle of law that ignorance of law is no excuse for non-compliance. Lord Bingham reiterated and recognized the right of the public to read the law as a fundamental element of the doctrine of the rule of law. He stated:

“The core of the existing principle of the rule of law [is] that all persons and authorities within the state, whether public or private, should be bound by and entitled to the benefit of laws publicly made.” [Lord Tom Bingham, *The Rule of Law*, Penguin Books (2010), pp. 37-39]

- d. This principle is also evidenced and reiterated several times in the orders and practices of the U.S. Copyright office. It can be also evidenced in the most recent Third Compendium of U.S. Copyright Office Practices which states that:

“As a matter of longstanding public policy, the U.S. Copyright Office will not register a government edict that has been issued by any state, local, or territorial government, including legislative enactments, judicial decisions, administrative rulings, public ordinances, or similar types of official legal materials. See Banks v. Manchester, 128 U.S. 244, 253 (1888) (‘there has always been a judicial consensus, from the time of the decision in the case of Wheaton v. Peters, 8 Pet. 591, that no copyright could under the statutes passed by Congress, be secured in

the products of the labor done by judicial officers in the discharge of their judicial duties’); Howell v. Miller, 91 F. 129, 137 (6th Cir. 1898) (Harlan, J.) (‘No one can obtain the exclusive right to publish the laws of a state in a book prepared by him’) [U.S. Copyright Office, [Compendium of U.S. Copyright Office Practices](#), Third Edition, 22 December 2014, § 316.6(C)(1), p. 37.].

- e. The U.S. Court of appeals for the fifth Circuit in *Veeck v. Southern Building Code Congress*, considered the issue of building codes and copyright and thereafter firmly affirmed that:

“Public ownership of the law means precisely that “the law” is in the “public domain” for whatever use the citizens choose to make of it. Citizens may reproduce copies of the law for many purposes, not only to guide their actions but to influence future legislation, educate their neighborhood association, or simply to amuse.” [293 F.3d 791 (5th Cir. 2002)].

- f. In the US 6th Circuit Court case, *Howell v. Miller* [91 F. 129, 137 (6th Cir. 1898)] it was held that, the “*general proposition cannot be doubted*” that “*no one can obtain the exclusive right to publish the laws of a state*”; there can be “*no ground of complaint*” against a party who merely reproduces “*the general laws of Michigan as therein printed*” in the official code books.

Further in *Davidson v. Wheelock* [27 F. 61, 62 (C.C.D. Minn. 1866)] it was again held that, state statutes “*are open to the world. They are public records, subject to inspection by everyone. They may be digested or compiled by any one, and it is true such compilation may be so original as to entitle the author to a copyright on account of the skill and judgment displayed in the combination and analysis; but such compiler could obtain no copyright for the publication of the laws only; neither could the legislature confer any such exclusive privilege upon him.*”

g. It is therefore submitted that the policy set out in Rule 25 of the BIS Rules and as implemented by Respondents is completely contrary to the BIS Act, its objectives and is violative of the rights of citizens of India. It is submitted that these practices are inconsistent with those followed by societies which follow rule of law and hence, such a practice deserves to be quashed.

74. That there is no other efficacious remedy and the BIS Act does not have an alternate remedy. Further, despite Petitioner No.1 having made representations, Respondents have failed to address the concerns raised in this Petition. Petitioners, who strongly believe in the cause, have approached this Hon’ble Court as there is no other recourse but to approach this Hon’ble Court.

75. Respondents have their office in New Delhi and are situated within the jurisdiction of this Hon’ble Court. Respondents are amenable to the

jurisdiction of this Hon'ble Court. Cause of action has arisen within the jurisdiction of this Hon'ble Court and hence, this Hon'ble Court has competence to entertain the present Petition.

76. That there is no delay in the present petition.
77. Court fees of Rs. 300/- has been affixed.
78. Petitioners have not filed any other petition or appeal before any court or tribunal in India.

PRAYER

IN THE PREMISES STATED HEREIN ABOVE, THE PETITIONERS ABOVENAMED MOST RESPECTFULLY PRAY THAT THIS HON'BLE COURT MAY BE PLEASED TO:

- a. Issue a writ of mandamus directing Respondent No.2 to make available all Indian Standards / BIS Standards free of cost or at such rates this Hon'ble Court may deem fit and proper,
- b. Issue a writ of prohibition, restraining Respondent No.2 from charging exorbitant fees / charges on any future Indian Standards / BIS Standards,
- c. Declare Section 11 of the BIA Act, 2016 as *ultra vires* the Constitution,
- d. Declare Section 9(g) of the BIS Act, 2016 as *ultra vires* the Constitution,
- e. Declare Rule 25 of the BIS Rules 2018 as *ultra vires* the BIS Act and the Constitution,
- f. *Ad interim* relief in terms of Clause (b) above, pending disposal of the present writ petition,
- g. Any other relief that this Hon'ble Court may deem fit and proper.

PETITIONER

THROUGH

NISHITH DESAI ASSOCIATES

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NEW DELHI 110024

NEW DELHI

October 29, 2018

Settled by

Salman Khurshid

Senior Counsel

New Delhi