



The Gravest Injustice Towards An Indian Investor In UAE

09th Feb, 2018, Kochi.

To

Hon'ble Minister for External Affairs, Smt. Sushma Swaraj,
8, Safdarjung Lane, New Delhi - 110 011.

Sub. The Gravest Injustice Towards An Indian Investor In the UAE.

Respected Madam,

This representation is in continuation of the letter dated 16.07.2014 addressed to the Hon'ble Minister for the MEA. A copy of the same is enclosed herewith for ready reference as Annexure-1.

[Special Note: The Petitioner wishes to emphasize that unlike the common types of cases, this representation before the Govt. of India involves some important issues of great legal significance; namely,

(I) The Petitioner's case had already been decided in absolute, in his favour, in different Courts of Abu Dhabi, UAE, including its Apex Court, way back in 1996.

(II) The 'UAE regime' has ignored and violated the 'Four Consecutive Court Judgments' against them. What's more, an endorsement was made in the passport of the petitioner, in support of an 'administrative order', to the effect that the petitioner was deported in the light of the case before the Criminal Court.

(III) This order was false to the knowledge of the authority and was deliberately incorporated constituting the gravest crime of false representation making out a case of 'Outright Fraud' against the UAE administration. It's perhaps unparalleled in the whole history of the world!].

The Petitioner was subjected to acute torture, detention in prison, and repatriation without any of his assets, whatever, to the homeland, India.



The violation of human rights of the acutest kind, which has virtually deprived him of the life and liberty guaranteed under article 21 of the Constitution of India.

The Hon'ble Supreme Court has laid down the steps to be taken by the State, whenever a citizen is arrested by the Police, in D.K. Basu's case. They include intimation by Police about the case to the near relatives of the accused and the production by the accused before Court. A copy of the guidelines for arrest is produced herewith as Annexure-2.

The Petitioner migrated to UAE in 1979, when he had education as an engineer with expertise and experience in Refrigeration and Electro-Mechanical works with Voltas & Lufthansa in Bombay.

UAE at the time was a poorly developed area. The under developed condition called for immense developmental activities including construction of buildings and ports, and other massive commercial structures. The expertise of the Petitioner was mostly needed for the country at that time, as in Electro-Mechanical activities were primary requirements for a country with desert like condition.

By hard work in the industry, and with full devotion for the developmental activities, the Petitioner also contributed his humble but impressive expertise and work for his host country, UAE.

The Petitioner had diverse activities as an investor, contractor and supplier. He could earn substantial assets by his long and untiring work. The assets including businesses, properties and real estate investment were substantial. His assets were estimated above 100 million US Dollars in 1995.

The UAE had essentially a feudal regime at that time. The King was all powerful. So was the 'Crown Prince'. The worst cruelties of the rulers had to be suffered by anyone placed in that country.

Quite often the Kings and Princes had their own secret circle of friends, who would not heed to principles or tenets of law. The Petitioner was an unfortunate victim of such an agonizing situation.

A local Emirati, a friend of Abu Dhabi 'Crown Prince' with malicious intention, tried to appropriate the substantial assets of the Petitioner.



As a law abiding citizen with legal and democratic tradition like rule of law of India, with great tradition, constitutional function in all branches like Executive, Legislative and Judiciary, the Petitioner sought remedies from the Courts of Law. The Civil lawsuit filed by the Petitioner, was decided in his favour, an interim order was issued by the Court, seeking to check-mate the cruel and corrupt activities of the local Emirati.

The local Emirati, schemed in collaboration with the 'Crown Prince', many activities, which seriously threatened the Petitioner's life. He joined hands with the police to stop an 'execution of the decree' awarded by the Civil Court on an Apartment Tower, which was in favour of the Petitioner.

The local Emirati and his cronies, the plainclothes police, trespassed into the office of the Petitioner armed with heavy steel rods and chains. The Petitioner was racially abused (They were shouting openly that all 'Indians are thieves and procurers', a fact that stated in the Apex Court Judgment), assaulted, ransacked his entire office and robbed of money and valuables worth .4 million US Dollars.

The Petitioner was maliciously implicated in a criminal case with a preposterous allegation of 'Using force against government employee and assault'. He was arrested and incarcerated in different detention centers, torturing him brutally, denying him food and drink, and condemning him to hell like life.

The inhuman detention extended over a period of one year. Quite often it was solitary confinement. Access to a lawyer, friend or his employee was denied. The Petitioner survived all such tortures, humiliation and sufferings. He was constrained to conduct his case before the Courts on his own. The massive evidences established the innocence of the Petitioner and the inhuman commissions of crimes by the UAE officials.

The Criminal Court acquitted the Petitioner; directed to release him immediately and what's more to prosecute both the Policemen and the local person. The Hon'ble Court further passed orders to investigate the crime committed by them.

"The Policemen and the local dropped all the charges against Petitioner and pleaded guilty in the second stage of the criminal proceedings".

The Apex Court upheld the findings of the Trial Court. It directed the authorities to restore to the Petitioner all the Rights he was deprived of and



'TO COMPENSATE HIM' for all losses and sufferings inflicted upon by the Abu Dhabi Police.

Strangely enough all the four expeditious judicial verdicts of the Abu Dhabi Court were wantonly obstructed, kicked off and violated by the regime. The regime even went to the extent of committing criminal fraud to deport the Petitioner arbitrarily, in order to avoid honouring its moral obligations.

On his return to his motherland India, he had to struggle much to preserve his very life.

The Petitioner approached the Courts in India, the Hon'ble Supreme Court and the High court of Delhi for Justice in 1996, 1997 and 2003 respectively.

The High court at Delhi repeatedly directed the Government of India to dispose of his representation and pass appropriate orders in relation to the violation of laws as detailed in the representation.

The Petitioner had waited patiently all these years, but could not get any relief whatever till this day.

The Petitioner reminded the Government about the pending representation. After a long delay he was informed that the representation was missing in the office of the Govt. of India. He was directed to file a further representation. This too was promptly done.

It is unfortunate that even now no orders have been passed in his representation.

The compensation payable for the violation of Human Rights, torture, incarceration in jail, and virtually appropriating all his businesses and assets, in UAE, merits redressal of the long pending grievances by the Govt. of India.

The damages under the various counts would come to many hundred millions of dollars. Interest is also due on the amount determined as the liability. Some important intervening developments may also be adverted to:

(a), In a similar situation, the Court in the United States has taken suit, wherein compensation was claimed in USA by an American citizen against the State of UAE. Though the jurisdiction of the US Court was initially questioned, the State of UAE acquiesced in the jurisdiction of the Court,



ultimately a settlement between the US citizen and the defended UAE state, the later agreeing to pay 10 million US dollars by way of settlement.

(b), UAE has opened consulate at Thiruvananthapuram in the state of Kerala where the Petitioner resides. UAE has very recently concluded very many investment contracts which involves collaboration between the UAE and India, and between the citizens of both countries.

(c), UAE, it is understood, has resorted to recovery proceedings for the amounts claimed by the UAE Banks. This will imply sale of properties of an Indian citizen in India for satisfying the debts of the UAE banks and the Govt. of UAE. This circumstance will also justify active intervention by the Govt. of India for securing justice to an Indian citizen and repatriation of his assets and the dues awarded by the UAE Courts to the Indian Union.

The Petitioner had suffered injustice from both the governments, India and the UAE, for unduly long periods of over 22 years. The very life of the Petitioner and the members of his family are imperiled by the violation of their Human Rights. An interim relief of 20 million US dollars would be highly just and equitable in the circumstances.

‘The principles enunciated in a Judgment of the Kerala High Court in Radhakumari’s case is a historical example. The decision has been approvingly followed by all other Courts in India. (Radhakumari vs K.M.K. Nair (1983)’.

The Petitioner earnestly appeals for an early disposal of his representation at any rate before 31.03.2018. If the Petitioner is denied an interim relief even at this stage, he will be constrained to initiate appropriate legal proceedings for vindication of his Constitutional Rights.

The Petitioner prays that he may be heard in the matter before final orders are passed.

Yours faithfully,

Panikkaveetil K. Jabir, [Petitioner],
501, Metro Plaza Building, Market Road, Near High Court,
Kochi, Kerala – 682018.
Dated 9th day of February 2018.



Encl:

1) Ref. Letter to Smt. Sushma Swaraj, Hon'ble Minister for External Affairs, dated 16.07.2014

2) The principles laid down by Hon'ble Supreme Court, in D.K.Basu Vs State of West Bengal.

Representation [09-02-2018] to:

Hon'ble External Affairs Minister of India, Smt. Sushma Swaraj;

Representation [Copies] to:

- 1) Hon'ble Prime Minister of India, Shri. Narendra Modi;
- 2) Shri. Vijay Keshav Gokhale, Secretary to Government of India, MEA;
- 3) H.E. Dr. Ahmed Al Banna Ambassador of the U.A.E., New Delhi.

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