

- (b) The respondent at the time of presentation of the petition, resides, or
- (c) The parties to the marriage last resided together, or
- (d) In case the wife is the petitioner, where she is residing on the date of presentation of the petition, or
- (e) The petitioner is residing at the time of presentation of the petition in a case where the respondent is, at the time, residing outside the territories to which the Act extends, or has not been heard of as being alive for a period of seven years or more by those persons who would naturally have heard of him if he were alive.

The districts in which the Family Courts have been established under Family Courts Act, 1984, the petitions shall lie before the Principal Judge, Family Court ( Section 7 and 8 Family Courts Act, 1984)

Every petition shall state distinctly the following facts-

- (a) That the marriage of the petitioner was solemnized with the respondent in accordance with Hindu rites and ceremonies on ....at.....and and affidavit to the effect has to be enclosed
- (b) That there is no collusion between the petitioner and the other party in presenting the petition for annulment of the marriage. This fact need not be pleaded in case of petition under section 11 of the Act.
- (c) In case the Petition for Divorce is filed on the ground of cruelty of the respondent, it has to be specifically pleaded that the petitioner has not condoned the act of the respondent.
- (d) Where the petition for divorce on mutual consent is filed, affidavits of both the parties are to be attached.
- (e) In case of petition for Restitution of Conjugal rights, it has to be pleaded that the respondent has withdrawn from the company of petitioner without any reasonable cause.
- (f) In the petition under the Act, the details regarding the status and place of residence of the parties to the marriage before the marriage and at the time of presentation of the petition have to be provided.



Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial	Name of Parties	Nature of Proceedings with Section of that Act	Number and year of the case	Name and location of court	Result
--------	-----------------	--	-----------------------------	----------------------------	--------

(i)

(ii)

(iii)

9. That the marriage was solemnized at..... The parties last resided together at..... The parties are now residing at.....

(Within the local limit of the ordinary original jurisdiction of this Court.)

10. That the petitioner submits that this Hon'ble Court has jurisdiction to try and entertain this petition

### PRAYER

In view of the above facts and circumstances, it is, therefore, most respectfully and humbly prayed that this Hon'ble Court may be pleased to grant a decree of restitution of conjugal rights under Section 9 of HMA in favor of petitioner.

Any other relief/order/Direction this Hon'ble Court may deem fit in the interest of justice and equity.

PETITIONER

Through

Delhi

Dated

ADVOCATE

### VERIFICATION

The above named petitioner states on solemn affirmation that paras 1 to .....of the petition are true to the petitioner's knowledge and paras.....to..... are true to the petitioner's information received and believed to be true by him/her.

Verified at.....(Place)

Dated.....

PETITIONER

[NOTE: AN AFFIDAVIT OF PETITIONER IS TO BE APPENDED]

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**IN THE COURT OF PRINCIPAL JUDGE, FAMILY COURT (DISTT.), DELHI**  
**HMA PETITION NO. \_\_\_\_\_ OF 2017**

**IN THE MATTER OF :**

IN THE MATTER OF :

X .....s/o ..... PETITIONER

R/o .....

VERSUS

Y .....w/o ..... RESPONDENT

R/o .....

**PETITION FOR JUDICIAL SEPARATION UNDER SECTION 10**  
**OF THE HINDU MARRIAGE ACT, 1955 (NO. 25 OF 1955)**

The petitioner prays as follows:

1. That A marriage was solemnized between the parties according to Hindu rites and ceremonies on dt .....at.....The said marriage is registered with the Registrar of marriage. A certified copy of the relevant extract from the Hindu Marriage Register.....is filed herewith.

An affidavit, duly attested.

2.that the status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:

	Husband			Wife		
	Status	Age	Place of Residence	Status	Age	Place of Residence
(i) Before marriage						
(ii) At the time of filling the petition						

(Whether a party is a Hindu by religion or not is as part of his or her status).

3. that the (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. That the respondent has.....(any one or more of the grounds available under section 10 may be pleaded here. The matrimonial offences charged should be set in separate paragraphs with times and places of their alleged commission. The facts on which the claim to relief is founded should be stated in accordance with the Rules and as distinctly as the nature of the case permits.)

5. (where the ground of petition is on the ground specified in clause (i) of section 13 (1). The petitioner has not in any manner been necessary to or connived at or condoned the acts complained of.

6. (Where the ground of petition is cruelty). The petitioner has not in any manner condoned the cruelty.

7. that the petition is not presented in collusion with the respondent.

8. that there has not been any unnecessary or improper delay in filing the petition.

9. that there is no other legal ground why relief should not be granted.

10. that there have not been any previous proceedings with regard to the marriage by or on behalf of any party.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial	Name of Parties	Nature of Proceedings with Section of that Act	Number and year of the case	Name and location of court	Result
(i)					
(ii)					
(iii)					
(iv)					

11. That the marriage was solemnized at..... The parties last resided together at..... The parties are now residing at..... (Within the local limit of the ordinary original jurisdiction of this Court)

12. That the petitioner submits that this Hon'ble Court has jurisdiction to try and entertain this petition

**PRAYER**

In view of the above facts and circumstances, it is, therefore, most respectfully and humbly prayed that this Hon'ble Court may be pleased to grant a decree of Judicial Separation under Section 10 of HMA in favor of petitioner.

Any other relief/order/Direction this Hon'ble Court may deem fit in the interest of justice and equity.

PETITIONER

Delhi  
Dated

Through  
ADVOCATE

VERIFICATION:

The above named petitioner states on solemn affirmation that paras 1 to\_\_\_\_ of the petition are true to the petitioner's knowledge and paras\_\_\_\_ to\_\_\_\_\_ are true to the petitioner's information received and believed to be true by him/her.

Verified at\_\_\_\_\_ (Place)  
Dated\_\_\_\_\_

PETITIONER

[Note : An affidavits of petitioner is to be appended]

\* \* \* \* \*

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**IN THE COURT OF PRINCIPAL JUDGE, FAMILY COURT (DISTT.), DELHI**

**HMA PETITION NO. \_\_\_\_\_ OF 2017**

IN THE MATTER OF:

X \_\_\_\_\_ ... PETITIONER  
 VERSUS  
 Y \_\_\_\_\_ ... RESPONDENT

**PETITION FOR DISSOLUTION OF MARRIAGE BY A DECREE OF DIVORCE  
 UNDER SECTION 13 OF THE HINDU MARRIAGE ACT, 1955 (NO 25 OF 1955)**

The petitioner prays as follows

1. That a marriage was solemnized between the parties according to Hindu rites and ceremonies after the commencement of the Hindu Marriage Act on \_\_\_\_\_ at \_\_\_\_\_. The said marriage is registered with the Registrar of marriage.

A certified copy of the relevant extract from the Hindu Marriage Register.....is filed herewith.

An affidavit, duly attested stating above facts has also been filed.

2. That the status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:

	Husband			Wife		
	Status	Age	Place of Residence	Status	Age	Place of Residence
(i) Before marriage						
(ii) At the time of filling the petition						

(Whether a party is a Hindu by religion or not is as part of his or her status).

3. (In this paragraph state the names of the children, if any, of the marriage together with their sex, dates of birth or ages).

4. That the respondent.....(one or more of the grounds specified in section 13 may be pleaded here. The facts on which the claim to relief is founded should be stated in accordance with the Rules and as distinctly as the nature of the case permits. If ground as specified in clause (i) of Section 13 (i) is pleaded, the petitioner should give particulars as nearly as he can, of facts of voluntary sexual intercourse alleged to have been committed. The matrimonial offences/offences charged should be set in separate paragraphs with the time and places of their alleged commission.

5. (Where the ground of petition is on the ground specified in clause (i) of sub-section (1) of Section 13. The petitioner has not in any manner been accessory to or connived at or condoned the act(s) complained of).

6. (Where the ground of petition is cruelty). The petitioner has not in any manner condoned the cruelty.

7. That the petition is not presented in collusion with the respondent.

8. That there has not been any unnecessary or improper delay in filing the petition.

9. That there is not other legal ground why relief should not be granted.

10. That there have not been any previous proceedings with regard to the marriage by or on behalf of any part.

Or

There have been the following previous proceedings with regard to the marriage by or on behalf of the parties:

Serial	Name of Parties	Nature of Proceedings with Section of that Act	Number and year of the case	Name and location of court	Result
--------	-----------------	--	-----------------------------	----------------------------	--------

(i)

(ii)

(iii)

(iv)

11. That the marriage was solemnized at..... The parties last resided together at..... The parties are now residing at..... (Within the local limit of the ordinary original jurisdiction of this Court.)

12. That the petitioner submits that this Hon'ble Court has jurisdiction to try and entertain this petition

PRAYER

In view of the above facts and circumstances, it is, therefore, most respectfully and humbly prayed that this Hon'ble Court may be pleased to grant a decree of divorce under Section 13 of HMA in favor of petitioner.

Any other relief/order/Direction this Hon'ble Court may deem fit in the interest of justice and equity.

PETITIONER

VERIFICATION:

The above named petitioner states on solemn affirmation that paras 1 to \_\_\_ of the petition are true to the petitioner's knowledge and paras \_\_\_ to \_\_\_ are true to the petitioner's information received and believed to be true by him/her.

Verified at \_\_\_\_\_ (Place)

Dated \_\_\_\_\_

PETITIONER

[**Note :** An affidavit of petitioner is to be appended]

**IN THE COURT OF PRINCIPAL JUDGE, FAMILY COURT (DISTT..), DELHI**

**HMA PETITION NO. \_\_\_\_\_ OF 2017**

IN THE MATTER OF:

X \_\_\_\_\_ ... PETITIONER NO. 1

AND

Y \_\_\_\_\_ ... PETITIONER NO. 2

**PETITION FOR DISSOLUTION OF MARRIAGE**  
**BY A DECREE OF DIVORCE BY MUTUAL CONSENT UNDER**  
**SECTION 13-B(1) OF THE HINDU MARRIAGE ACT, 1955**  
**(NO. 25 TO 1955)**

Most Respectfully showeth:

1. That a marriage was solemnized between the parties according to Hindu rites and ceremonies on \_\_\_\_\_ at \_\_\_\_\_. A certified copy of the relevant extract from the Hindu Marriage Register is filed herewith. An affidavit, duly attested stating these facts is filed herewith.

2. That the status and place of residence of the parties to the marriage before the marriage and at the time of filing the petition were as follows:

	Husband			Wife		
	Status	Age	Place of Residence	Status	Age	Place of Residence
(i) Before marriage						
(ii) At the time of filling the petition						

(Whether a party is a Hindu by religion or not is as part of his or her status).

3. (In this paragraph state the place where the parties to the marriage last resided together and the names of the children, if any, of the marriage together with their sex, dates of birth or ages.)

4. That the parties to the petition have been living separately since \_\_\_\_\_ and have not been able to live together since then.

5. That the parties to the petition have mutually agreed that their marriage should be dissolved.

6. That the mutual consent has not been obtained by force, fraud or undue influence.

7. That the petition is not presented in collusion.

8. That there has not been any unnecessary or improper delay in instituting the proceedings.

- 9. That there is no other legal ground why relief should not be granted.
- 10. That the petitioners submit that this Court has jurisdiction to entertain this petition.

**PRAYER**

In view of the above facts and circumstances, it is, therefore, most respectfully and humbly prayed that this Hon'ble Court may be pleased to grant a decree of divorce on mutual consent thereby dissolving the marriage between petitioner No. 1 and Petitioner No. 2 on the ground of mutual consent.

PETITIONER NO. 1  
PETITIONER NO. 2

**VERIFICATION**

The above named petitioner states on solemn affirmation that paras 1 to \_\_\_\_ of the petition are true to the petitioner's knowledge and paras \_\_\_\_ to \_\_\_\_ are true to the petitioner's information received and believed to be true by him/her.

Verified at \_\_\_\_\_ (Place)  
Dated \_\_\_\_\_

PETITIONER NO. 1  
PETITIONER NO. 2

[**Note** : An affidavits of petitioners is to be appended]

\* \* \* \* \*

**APPLICATIONS UNDER THE INDIAN SUCCESSION ACT**

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(TESTAMENTARY & INTESTATE JURISDICTION)**

**PROBATE CASE NO. ....OF 2017**

IN THE MATTER OF

X \_\_\_\_\_ ... APPLICANT/PETITIONER

VERSUS

1. State \_\_\_\_\_

2. Y \_\_\_\_\_ ... RESPONDENTS

**PETITION FOR GRANT OF PROBATE**

To

The Hon'ble Mr Justice....., Chief Justice and his Companion  
Justices of this Hon'ble Court

The humble petition of.....residing at.....in the town  
of Calcutta the sole executor of the Will of the said deceased most respectfully sheweth

1. That the said.....the deceased above named lately residing at.....in the town of Calcutta within the jurisdiction aforesaid who was in his life-time and at the time of his death a Hindu governed by the.....School of Hindu Law departed his life at his dwelling house at No.....in the town of Calcutta on the.....date of.....2012.....having duly executed his Will and Testament in English language and character bearing date the.....and a Codicil thereto also in the English language and character bearing date the.....2012.....whereby and whereof he appointed your petitioner his sole executor.

2. That the signature of the testator of the said Will was duly attested amongst others by.....and the signature of the testator in the codicil was duly attested amongst others by.....The execution of the said Will is proved by a declaration of.....one of the attesting witnesses to the said will and the execution of the said codicil is proved by a declaration of.....one of the attesting witnesses to the said codicil. The said declarations are hereto annexed.

3. The deceased above-named died leaving properties within the jurisdiction of this Hon'ble Court to be administered and your petitioner is desirous of obtaining from the Hon'ble Court a probate of the said Will above named with effect throughout the union of India.

4. That the particulars of the estate of the deceased above-named with so far as your petitioner has been able to ascertain are likely to come into the hands of your petitioner as such executor as aforesaid are set out in the affidavit of assets of your petitioner affirmed on the.....day of.....and the value of the estate will not after deducting the liabilities, with the best of petitioner's information and belief, exceed the sum of Rs.....

5. That so far as your petitioner has been able to ascertain and is aware there are no properties and effects other than those specified in the affidavit of assets.

6. The petitioner undertakes in case of any other properties and effects coming to his hands to pay Court-fees payable in respect thereof.

7. That no intimation has been received by this Hon'ble Court from any other High Court or any other Court in the Union of India of any Grant of Probate or Letters of Administration to the estate and credits and effect of the said deceased as appeared from the Registrar's Certificate hereto annexed and marked with letter "B".

8. That the amount of the value of the estate likely to come to your petitioner's hands does not exceed Rs.....and the duty payable in respect of the said estate as will appear from the certificate of the Taxing Officer hereto and marked with the letter "C" has been paid.

9. That your petitioner is desirous of obtaining Grant of Probate of the said last Will and Testament dated the.....as also the said codicil dated.....of the deceased above-named out of and under the seal of this Hon'ble Court as sole executor named in the codicil.

The petitioner therefore humbly prays to Your Lordships for an order:-

(1) That probate of the last Will and Testament dated.....together with the Codicil thereto dated.....of the deceased above-named be granted to your petitioner the said.....as the sole executor named therein with effect throughout the Union of India.

(2) That your petitioner hereby undertake to pay to the State or other party entitled thereto the fees of Court in case the estate shall hereafter be found to be of greater gross value than Rs.....

(3) That your petitioner be at liberty to pay in the first instance out of the funds of the estate to come into his hands the costs of and other incidental expenses to this application and all costs that might be necessary in the premises to be taxed by the Taxing Officer of this Hon'ble Court.

(4) That such further and other orders be made and directions given as to this Hon'ble Court may seem fit and proper.

And your petitioner, as is duty bound, shall every pray.

Delhi.

PETITIONER

Dated :

THROUGH

ADVOCATE

[NOTE : To be supported by an affidavit]

\* \* \* \* \*

**IN THE COURT OF THE DISTRICT JUDGE (DISTRICT \_\_\_\_\_), DELHI**  
**CASE NO.....UNDER ACT XXXIX OF 1925**

IN THE MATTER OF A PETITION FOR LETTERS OF ADMINISTRATION  
 OF THE ESTATE OF THE LATE \_\_\_\_\_

IN THE MATTER OF:

X \_\_\_\_\_ ... PETITIONER

VERSUS

1. STATE \_\_\_\_\_

2. Y \_\_\_\_\_ RESPONDENTS

**PETITION FOR GRANT OF LETTERS OF ADMINISTRATION**

The humble petition of.....of.....most respectfully showeth:-

1. That the late A.B. of.....died at.....on the .....day of .....2004.....leaving properties situate within the jurisdiction of this Court. A description of the said properties is set forth in the affidavit annexed to the petition.

2. That a description of the relatives of the deceased, and their respective residences are given below:

(1) Son (Petitioner)

(2) Brother, Sri.....resident of.....

(3) Widow, Sreemati.....resident of.....

(4) Mother, Sreemati.....resident of.....

(5) Daughter, Sreemati.....resident of.....

3. The petitioner is the son of the deceased, and as such is entitled to letters of administration to the estate of the deceased.

4. The deceased abovenamed died leaving properties in the suchedule annexed.

5. That, to the best of your petitioner's belief, no application has as yet been made by anybody to any other Court for letters of administration of the estate of the said deceased.

6. Under the circumstances set forth above, your petitioner prays that letter of administration to the estate of A.B. may be granted to your petitioner.

And your petitioner as in duty bound shall every pray.

I \_\_\_\_\_ the petitioner in the above petition, do hereby declare that what is stated therein is true to the best of my information and belief.

Delhi.

PETITIONER

Dated :

THROUGH

ADVOCATE

**NOTE :** To be supported by an affidavit]

## PETITIONS UNDER CONSTITUTIONAL LAW

### WRITS

#### Meaning and evolution of the concept of Writs:

The term 'writ petition' in its general connotation means a Petition filed before the competent Courts, having prerogative powers, when some special and inherited rights of the people are infringed by the government or its officials.

In the common laws of English this term is well settled as a 'prerogative writ' which means a writ special associated with then king. It resembled the extraordinary authority of the Crown/Court. In English prerogative writs were issued only at the suit of the king but later on it was made available to the subject also.

#### Habeas Corpus

*Habeas Corpus* is a writ requiring the body of a person to be brought before a judge or Court. In other words, it is prerogative process for securing the liberty of the subject which affords an effective means of immediate release from unlawful unjustifiable detention whether in prison or in private custody. It is an ancient supreme right of the subject. Its object is the vindication of the right of the personal liberty of the subject. The High Courts and The Supreme Court have got a very wide power of protecting the liberty of subjects, under Art.226 and Art.32 respectively of the Constitution. These powers are to be exercised on certain fixed judicial principles and not in an arbitrary manner. The jurisdiction can be exercised if the Court is satisfied that the detention is illegal or improper, where the Court can also embark upon an inquiry as to whether the enactment under which a person is detained is proper or not. A proceeding of habeas corpus is essentially of a civil character, and is concerned with the personal liberty of a citizen. However, the power is exercised on the criminal side of the High Court's appellate jurisdiction. The High Courts and the Supreme Court exercise this power when satisfied that the matter is of urgency, and no other legal remedy is available.

An application for *habeas corpus* may be made by any person interested in the liberty of the detenu without unreasonable delay; and it must be supported by an affidavit of the petitioner. Ordinarily a rule nisi (to show cause) is issued by the Court in the first instance. It is not open to Court to go behind the reasons given by Government for the detention, and it must see the motive of the impugned law and the *bonafide* of the Government. If the impugned detention has been induced by *malafide* and some other strenuous reasons and not for bonafide cause, it shall be quashed and the individual shall be set at liberty.

#### Mandamus

It is high prerogative writ of a most extensive remedial nature. The Supreme Court and high court have power respectively under Article 32 and Article 226 of the Indian constitution to issue this writ in the form of a command directing any person holding public office under the government or, statutory bodies or, corporation or, to an inferior Court exercising judicial or

quasi-judicial function to do a particular act pertaining to his office or duty and which the court issuing the writ considers to be the right of the petitioner and is in the interest of justice. It is not restricted to persons charged with judicial or quasi-judicial; duty only.

It is issued only when there is a specific legal right, but not specific legal remedy to enforce that right. It lies for restoration, admission and election to office of a public nature so long the office is vacant. It may, also, lie for the delivery, inspection and production of public books, papers and documents provided that the petitioner has a direct tangible interest in such books, paper and documents. It lies for the performance public duties which are not discretionary and compel public officials to perform such public duties.

*Mandamus* will not be issued when any alternative remedy by way of appeal or any other remedy under any other statute is available. Article 32 is limited to the enforcement of fundamental right of part III of the Constitution only.

### **Certiorari**

The writ of *Certiorari* may be issued to any judge, Magistrate or person or body of person or authority vested with judicial or quasi-judicial functions. An order of *Certiorari* is an order directing the aforesaid authorities and requiring them to transmit the record of the proceedings in any cause or matter to the High Court to be dealt with there. It may be issued when the decision complained is of an authority having the legal duty to act judicially or quasi-judicially, and the authority has either no jurisdiction, or there is an excess of jurisdiction. Mainly it is issued for quashing decisions only.

### **Prohibition**

The writ of prohibition is an order directed to an inferior Court or tribunal forbidding such Court or tribunal from continuing with the proceeding of any cause or matter. It is an appropriate writ 'to a tribunal which threatens to assume or assumes a jurisdiction not vested in it, so long as there is something in the proceedings left to prohibit.'

The difference between a writ of *Prohibition* and *Certiorari* is that the former is issued to restrain a tribunal from doing an act before it is actually done, while the latter may be issued during the course of the proceeding of an act and even after the act is done and the proceeding is concluded. Both can be issued to the person, or body, or tribunal if charged with judicial or quasi-judicial duties.

### **Quo Warranto**

It is a writ questioning a right of a person holding an office of a public nature, and direct him to show an authority under which he is holding such office or exercising the right. In older days it lay against the crown who claimed or usurped any office, franchise or liberty for holding an enquiry by what authority he support his claim. Now, it may be issued any person holding the office of a public nature on the application of any person without alleging the violation of his any specific right.

Any member of the public acting in good faith and whose conduct otherwise did not disentitle him to the relief can apply to the High Court for this writ. For instance, any registered graduate of any university can apply for the instance of this writ against any member of University Syndicate or Executive Council or Academic Council or any such other statutory body of that University. Likewise, a petition may lie against the Speaker, chairman or the parliament of state legislation or any other statutory or local bodies. If the opposite party fails to support his claim, he will be ousted from the office and may be ordered to pay fine and cost of the petition.

**IN THE HIGH COURT OF DELHI AT NEW DELHI  
(WRIT JURISDICTION)**

**WRIT PETITION (CIVIL) NO. \_\_\_\_\_ OF 2016**

IN THE MATTER OF :

X \_\_\_\_\_ S/o \_\_\_\_\_ R/o \_\_\_\_\_ PETITIONER

VERSUS

Municipal Corporation of Delhi,  
Through Its Commissioner

... RESPONDENT

**WRIT PETITION UNDER ARTICLE 226 OF CONSTITUTION OF INDIA  
FOR ISSUANCE OF PREROGATIVE WRIT OF MANDAMUS  
OR ANY OTHER APPROPRIATE WRIT**

Respectfully showeth :

1. That the petitioner is a citizen of India residing at \_\_\_\_\_. The respondent is Municipal Corporation of Delhi having their office at Town Hall, Chandni Chowk, Delhi.

**BRIEF FACTS :-**

2. That the petitioner is aggrieved by the illegal appointments of daily wage workers by the M.C.D. office in defiance of Notification No. MCD/LF/01-103 dated 1.2.2014 which requires the M.C.D. to appoint only those person as Daily wage worker who are below the age of 30 years as on 01.10.2014. The said Notification was issued after it was duly approved.
3. That the petitioner is of 27 yrs of age and was working as a daily wage worker, when on 1.12.2014 his services were terminated without notice/prior intimation. The Petitioner during his service worked to the satisfaction of his superiors. The respondent has appointed Sh. Ompal, Sh. Ram and Smt Maya in defiance of the said notification M.C.D./LF/01-/03 at 01.02.2014 as all the three person namely Om Pal, Sh. Ram and Smt. Maya are more than 30 years of age as on 01.10.2014. The about named persons were appointed in utter disregard of Notification. The respondent, however, removed the petitioner from service although petitioner met the requirements.. That the Petitioner made representation to the respondent vide letter dated 1.12.2014, 2.1.2015 and also met the commissioner personally and apprised them of his grievance, however nothing materialized .
4. That in spite of oral and written representations the respondent have not cared to act and are maintaining stoic silence on the whole issue.
5. That the petitioner have thus approached the Hon'ble court on amongst others the following grounds

**GROUND:**

- (a) Because the action of the respondent is contrary to law and good conscience.

- (b) Because the action of the respondent is arbitrary, unreasonable, irrational and unconstitutional.
- (c) Because respondent have no right to play with the career of the petitioner.
- (d) Because the petitioner was removed from job inspite of the fact that he was below age and fulfilled all requirements.
- (e) Because respondent appointed. Sh. Ompal, Sh. Ram and Smt Maya despite their being overage and not meeting requirements of Notification No. MCD/LF/01-103 dated 1.2.2014.
- (f) Because the action of the respondent is bad in law
- (g) That the Petitioner craves, leave of this Honorable Court to add, amend, alter the grounds raised in this petition.
6. That the cause of action in present case arose on 1.2.2014 when the respondent brought out the Notification No. MCD/LF/01-103 dated 1.2.2014., it further arise when on 1.12.2014 the petitioner was removed from job inspite of the fact that he was below age and fulfilled all requirements, it further arose when respondent appointed. Sh. Ompal, Sh. Ram and Smt Maya despite their being overage and not meeting requirements of Notification No. MCD/LF/01-103 dated 1.2.2014, it further arose when representations were made to respondent orally and in writing on 1.12.2014, and 2.1.2015. The cause of action further arose when respondent did not act inspite of the fact having brought to their notice. The cause of action is continuing one.
7. That the Petitioner has no other alternative efficacious remedy except to approach this Hon'ble Court by way of this writ petition
8. That the petitioner has not filed any other similar writ petition either before this Hon'ble Court or before the Supreme Court of India.
9. That there has been no undue delay in filing of this petition.
10. That the honorable court has territorial jurisdiction to entertain the writ petition.
11. That the requisite court fee of Rs. 50/- has been affixed on this petition.

**PRAYER :**

The petitioner most humbly prays that this Hon'ble Court may be pleased to :-

- (a) issue appropriate writ in the nature of mandamus or any other appropriate writ directing the Respondents to cancel the illegal appointment made in disregard of Notification No. MCD/LF/01-103 dated 1.2.2003 : and
- (b) issue necessary directions to appointment of petitioner and
- (c) issue any other further order/orders or direction/directions as this Hon'ble Court may deem fit and appropriate no the facts and the circumstances of this case.

**FOR THIS ACT OF KINDNESS THE PETITIONER ABOVENAMED SHALL EVER PRAY.**

Delhi

Date \_\_\_\_\_

THROUGH

PETITIONER  
ADVOCATE

**[NOTE :** The petition will be supported by an affidavit]

**WRIT PETITION (CRL.) FOR ENFORCEMENT OF FUNDAMENTAL RIGHT****IN THE HIGH COURT OF DELHI, AT NEW DELHI****WRIT PETITION (CRL.) NO. \_\_\_\_\_ OF 2016**

IN THE MATTER OF:

Mr. \_\_\_\_\_

s/o Sh. \_\_\_\_\_,

r/o \_\_\_\_\_

.....Petitioner

Versus

1. Union of India,  
Through  
Secretary to the Govt. of India  
Ministry of Finance,  
Department of Revenue,  
North Block, New Delhi-11001
2. The Joint Secretary (PITNDPS),  
to the Government of India,  
Ministry of Finance,  
Department of Revenue,  
Room No.26, Church Road,  
R.F.A. Barracks,  
New Delhi -110001
3. Director General,  
Directorate of Revenue Intelligence  
Delhi Zonal Unit, B-3 & 4, 6<sup>th</sup> Floor,  
Paryavaran Bhavan, CGO Complex,  
Lodhi Road, New Delhi-110003 .....Respondents

**PETITION UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA READ WITH SECTION 482 OF THE CODE OF CRIMINAL PROCEDURE, 1973 SEEKING ISSUANCE OF A WRIT OF MANDAMUS AND/OR ANY OTHER APPROPRIATE WRIT, ORDER AND/OR DIRECTION IN THE NATURE THEREOF, THEREBY DIRECTING THE RESPONDENTS TO PLACE ON RECORD THE DETENTION ORDER DATED 10.09.2013 PASSED IN RESPECT OF THE PETITIONER ISSUED UNDER SECTION 3(1) OF THE PREVENTION OF ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES ACT, 1988 BY THE RESPONDENT NO.2, ALONGWITH GROUNDS OF DETENTION AND RELIED UPON DOCUMENTS AND SIMILAR MATERIAL IN**

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**RESPECT OF OTHER CO-ACCUSED PERSONS AND FURTHER SEEKING ISSUANCE OF A WRIT OF CERTIORARI AND/OR ANY OTHER APPROPRIATE WRIT, ORDER AND/OR DIRECTION IN THE NATURE THEREOF, THEREBY QUASHING THE SAID DETENTION ORDER PASSED AGAINST THE PETITIONER**

**MOST RESPECTFULLY SHOWETH:**

1. That, vide the present petition the petitioner is challenging detention order dated 10.09.2013 issued under section 3(1) of the Prevention of Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act, 1988 (in short Act) by the respondent no.2 against him, in respect of which he has recently come to know, when some officials, claiming themselves to be police officials, visited his abovementioned premises in the first week of this month for its execution. It is worth mentioning here that similar detention orders were issued against even other co-accused persons, namely X and Y, which have been revoked on the recommendation of the Advisory Board, who did not find sufficient grounds for detention of those respective detenus. Copy of such a detention order bearing No. U-11011/1/2012- PITNDPS dated 10.09.2013 qua Mr. X is enclosed herewith as Annexure A. Copies of the grounds of detention passed in support of that detention order alongwith the list of relied upon documents are also enclosed herewith as Annexures B & C respectively.
2. That the allegations, as revealed from the grounds of detention in respect of his said co-accused, are that the petitioner was involved with other accused persons, in the activities of acquiring, possessing, hoarding, selling and exporting NDPS items. It is respectfully submitted that all the allegations as made in the grounds of detention are false, frivolous and motivated ones, which is also apparent from bare reading of grounds of detention and the documents, said to be relied upon at the time of passing the impugned detention order, since even as per those allegations the petitioner has not committed any offence whatsoever under the Narcotic Drugs and Psychotropic Substances Act, 1985 (in short Act). It is further submitted that in order to falsely implicate the petitioner in the matter he was forced /coerced to make certain involuntary statements under section 67 of the Act, which have been duly retracted. Not only this, it is respectfully submitted that, the petitioner is made to understand that, even other co-accused were forced/coerced to make certain involuntary and incorrect statements from which even they have retracted at the first available opportunity.
3. That, the petitioner's case is fully covered by the exceptions, as laid down, by the Hon'ble Supreme Court in Alka Subhash Gadia's case. It is respectfully submitted that recently the Hon'ble Supreme Court in Deepak Bajaj vs. State of Maharashtra, 2010 (4) SCC (Cri) 122 has summarized the law on the issue as under:
  - (a) Five grounds mentioned in Alka Subhash Gadia case, on which Court can set aside detention order at pre-execution stage, are illustrative and not exhaustive. It was also reiterated that judgment of a court is not to be read mechanically as a Euclid's theorem nor as if it were a statute, hence, cannot be constructed as such.
  - (b) It was held that entertaining petition against preventive detention order at pre-execution stage should be an exception and not a general rule. However, if a person