

FORCED SUBSCRIPTION (CHANDA) IN NAME OF RELIGIOUS CAUSES (PUJA) – PIL. (2246/2014) AT HC. CALCUTTA !!

Preamble is the reflection of, high purpose & noble objective of The Indian Constitution - It resolved to secure to all its citizens - JUSTICE, LIBERTY, EQUALITY & PROMOTE FRATERNITY !!

Preamble can be invoked to determine the ambit of - both Fundamental Rights & Directive Principles of State Policy.

The cause of grant of Fundamental Rights can be invoked in the court of law, but Directive Principles cannot be proactively bargained for, in the courts – except when they stand violated.

Constitution is a fundamental law & the government organs owe their origin to the Constitution & derive their authority from them & also discharge their responsibilities within it's framework.

Fundamental Rights possess intrinsic value - since they are natural to human race, which is not about animal existence.

Every Fundamental Right has foundational value & individuals possess them independently, by reason of the fact that, they are members of human race & are hence not a gift from State to citizens.

The Constitution confirms the existence of Fundamental Rights & gives them

protection.

The courts interpret the Constitution in a manner, which would enable the citizens to enjoy the rights, guaranteed by it - in fullest measure !!

The citizens cannot be enslaved, by the inefficiencies of the governing class.

Judiciary over the years has come to the rescue of citizens whenever - Laws are not implemented, Unconstitutional Laws are framed & There is no law in areas which require one.

Over the years - various religious festivities, are being organised in public like - Durga Puja, Kali Puja, Jagdarti Puja, Saraswati Puja, Ganesh Puja, Kartik Puja, Viskarma Puja among others !!

However with time, their aura has been enhanced remarkably - for the sheer size & decor !!

Beneath this visible happiness and feel good factor is an underlying wave of dissatisfaction, as because of inconvenience & apathy of the administration.

The following are contributive to the adverse state of affairs -

- 1) Many group have emerged in every corner of some regions of the nation, whose sole intention is to extract money in name of religious programmes, from the helpless citizens of the nation, no matter - of the unethical tools, deployed to extract, the intended contribution from the , targeted individual or institution !!

- 2) Roads-lanes-by lanes- even entrances to residences, places of business & lively hood stand blocked, by makeshift structures !!
- 3) High decibel sound blazing sound boxes breach the peace of air, putting to discomfort, not only the healthy & hearty but even the sick & bed ridden !!
- 4) Electricity connections are unethically tapped at will, leading to loss of hard earned tax payers money !!
- 5) Idols painted with highly toxic paints are immersed in water bodies which are lifeline to both human beings and the aquatic life and results in severely polluting of water hence endangering both aquatic and human life.
- 6) Currently the job of organizing religious festivals has gained a status of an industry, which is tax free - non accountable - is a source of funds to many of the criminally intended individuals who are a menace to the society along with various others multiple vices which keep getting evaluated & can be notified whenever required. In name of organizing committies for religious festivals, criminal gangs are operational, who leave no stone unturned to extract the amounts (also referred as forced subscription/chanda hereinafter) desired by them. Helpless citizens are harassed-abused, physically assaulted, even brutally murdered, in name of fund collection for a cause as noble as religion.

Worst the funds collected from such unethical initiatives are used to fund further criminal activities, leading to a vicious circle of ever

growing criminal nexus being created, more when it attracts more & more individuals in a poverty & illiteracy stricken country like ours !!

Added to it is the way the fresh young minds are being polluted by this menace with even (10) year old children organising as many as (100) pujas in a small subdivisional town. I myself have experienced some of the average implications of such collection drives – i have to evade my presence both at my residence & office for a prolonged time to evade the collection teams, as if an arrest warrant is out in my name. Since the collection drive begins a month or two before the occasion is scheduled - one can expect at least (4 to 5) daily visits both at office or residence, by collection groups visiting at rotation, not to mention of the threats & abuses !!

The problem is more aggravated for small business men and individuals with limited resources, who are all but helpless into submission towards demands being raised on them.

Truly speaking some people develop phobia due to continued exposure to such peace threatening activity on regular frequency, for a continued period of time.

In a city like Kolkata – an average trader can end up paying for (50) different activities organized by multiple groups, during the course of one year.

The pain endured by the citizens of the country while negotiating amounts to fund such unscrupulous demands can be well imagined & understood.

With only (130) policemen available for every (1.lac) of Indian population, against the united nations norm of (220) – [SOURCE,

REDIFF], the force is awfully stretched in disposal of its duties !! Registering an F.I.R. in itself is a difficult task, not to mention of investigation. With a police availability of (131) personnel per (01) lac of population as in (2008) against that of (559) in Italy (498.1) in Mexico (326.4) in USA. (192.7) in Nepal – way back in (2002) we as a nation compare poorly with other nations of the Globe. Topped up is the dismal level of actual police allocation against the allotted No.s. Additionally it also throws light on the limited resources in terms of personnel at disposal of the security establishment and hence the resources ought to be stretched, resulting in imperfect resolution to issues pertaining to crime **and hence a precautionary approach is needed to deter instances of criminal activity.** With huge No.s of warrants being non executed and millions of cases pending in courts, no one can deny the fact that the average law abiding citizen is afraid & wary of law breakers because of apathy of the entire executive machinery and hence submits himself to the unreasonable demands rather than fighting it out.

If it were not in the name of religious donation, the very act would have been branded as extortion.

This opportunity of disguise should be taken away from the hand of law breachers and hence as a responsible government provide for a peaceful environment to its citizens, who have elected it !!

Further the right to live in peace is a fundamental right, of the democracy called India & cannot be weaned away by a small minority, who in pretext of religion & charity, not only disturb the peace of others life but actively divert the money at will to areas which they deem most appropriate for there own gains !!

21/01/2011 & 21/02/2011 A reply to an RTI. Query by the State Crime Records Bureau of Government of West Bengal listing the following –

Q. A) How many incidents of crime have been reported, with regards to forceful collection of subscription in name of religious cause, in last (10) years ??

Ans. A) North (24) Pgs. - (42); Purba Mednipore -(28); Nadia - (59); South (24) Pgs. – (50); Jalpaiguri – (103); Bakura – (31); Pachim Mednipore – (39); Hooghly – (10); Murshidabad – (20); Malda – (07); Dakshin Dinajpur – (16).

##The number of incidents of crime reported owing to forceful collection of subscriptions. Since as per study the number of actual crimes are more than the reported and the reported crimes are more than for which FIR.S are registered hence the actual crimes ought to be at least (10) times more than what has been mentioned in the RTI. reply.

Q.B) How many entities have been given permission for, organising religious ceremonies, in calender year (2009) & (2010-till date) ??

Ans.B) North (24) Pgs. - (2818 & 3075); Purba Mednipore -(819 & 872); Nadia - (1458 & 1540); South (24) Pgs. – (4877 & 5048); Jalpaiguri – (774 & 775); Bakura – (Nil); Pachim Mednipore – (1421); Hooghly – (Nil); Murshidabad – (728); Malda – (4362); Dakshin Dinajpur – (Nil); Birbhum – (490).

##The above mentioned is the number for those pujas who have approached police for permission and since many do not approach the

police at all, the actual figure would stand much taller, than what has been mentioned in the RTI. reply.

Q.C) Is there any pro active system of tracking entities who collect subscriptions, without obtaining any clearance as required by law and if yes, how many such cases have been registered, by the relevant law enforcement agency, without any complain being lodged, by members of common public or trade associations ??

Ans.C) There is no pro-active system of tracking, entities regarding collection of subscription in name of religious/charitable occasions.

##The police surprisingly have no proactive system of tracking entities who collect subscription in name of religious causes, without obtaining necessary clearance of law.

Q.D) Why is permission to organise and collect funds for, such religious festivities, not limited to members of the entities like, societies or trust and entities, are allowed to conduct collection drives from the citizens who are non members ??

Ans.D) Permission is allowed to only those entities who arranged to holed religious festivities as per existing rules without any forceful collection of subscriptions.

##The police says that permission is granted to only such entities who do not indulge in forceful collection of subscription but how can police determined even before the collection drive commences as because the permission is granted before the collection drive is undertaken and also that police do not conduct a verification check on the criminal

background of office bearers and members of such entities before granting permission.

Q.E) Do entities apart from societies, trusts and co operatives, are entitled to organise such religious festivities and added fund collection drives ??

ANS.E) No.

##The police says that entities other than societies, trust and cooperatives are not entitled to organize religious festivities but there appears to be a flaw in their reply as because fly by night organizers mushroom in huge numbers and most importantly before obtaining police permission the furnishing of any such registration is not required. Further as pointed in reply (c) that there is not pro active system to track violators, hence those engaging in unlawful activities cannot be deterred.

Q.F) Is there an existence of any system to check the back ground of office bearers and members, of such entities, as to whether they have a criminal past ??

Ans.F) There is a system to track criminal background if any complain is received in this regard.

##Since there is not proactive system to check the background of the office bearers of entities who apply for permission to organize religious festivities and investigation is carried out only after crime is reported, the criminals have a free hand in organizing such religious festivities and terrorizing the peace loving citizens.

Q.G) Of the reported cases, of violation of law by such above mentioned entities, in how many cases, charge sheets have been filed ??

Ans.G) North (24) Pgs. - (42); Purba Mednipore -(23); Nadia - (39); South (24) Pgs. – (Nil); Jalpaiguri – (71); Bakura – (Nil); Pachim Mednipore – (39); Hooghly – (10); Murshidabad – (02); Malda – (06); Dakshin Dinajpur – (16).

##The low level of charge sheets reveal the poor level of police investigation post complain being lodged and hence inflates the morale of the trouble makers.

Q.H) Of the reported cases, of violation of law by such above mentioned entities, in how many cases courts have extended a final ruling ??

ANS.H) Under sub judice.

##Since there is no record extended no comments can be made.

Q.I) Under what sections are offenders who collect subscriptions by -

- 1) Non obtaining required permission, 2) Threatening,**
- 3) Physical assault, majorly booked and what is the maximum punishment under every section ??**

Ans.I) 1] Action will be taken according to nature of complains as well as provisions of law.

2] Under section (384), (506) IPC.

3] Under section (394) IPC. & (395) IPC. Maximum punishment is life time imprisonment. Under section (397) IPC. Maximum punishment is (07) years at least imprisonment.

##The clauses are worthy but only if implemented.

Q.J) Are attempt to murder cases also registered in any matter of forced subscription ??

ANS.J) If the offenders try to commit attempt to murder then the case is registered accordingly.

##Any grievous injury being caused to a peace loving citizen by a extortionist is an attempt to murder.

Q.K) How many incidents of turf war between two rival groups, over territorial control, regarding rights to collect subscription in name of religious and charitable causes, have been reported in last five years and what is the nature of injury and arms used in such clashes ??

ANS.K) Not reported.

##The police says that no incidents has been reported but the incident mentioned in Sl. No. – (15) throws light on such an incident. Further it is noteworthy that complete data of all districts is not available.

Q.L) Please extend certified copies of departmental and/or ministerial communication, regarding the threat to society, because of the menace of forceful collection of subscription.

ANS.L) No record is available in this regard to this office.

##Since there is no record extended no comments can be made, but it is also reflected that the security establishment, has never discussed the issue.

POINTS OF LAW

1. Whether the respondent authority, has acted unconstitutionally by not executing measures, which can prevent – intimidation as well as threat to well being and life as well of the citizens of the state, the origin of which is the gross violation of multiple laws, by entities who collect, subscriptions in name of – Religious Festivity.
2. Whether the respondent authority, can incorporate the prayers without any change in the existing laws, by virtue of an executive notification.
3. Whether the police authorities can grant permission for such acts of organizing Puja, when subscription collection, violates various sections of Indian Penal Code namely – Criminal Trespass (441); Intimidation (503); Extortion (383); Physical Assault (351) among others.

27/06/2010 As per report published in Kolkata Edition of Telegraph, The Indian Police Journal, published by the Bureau of Police Research and Development states that - crime statistics are lower than incidence because policemen are reluctant to register F.I.R. The study was conducted in North Bengal by the Superintendent of Police and reflected that the number of recorded cases of crime went up by more than (400%) after registration of F.I.R.S was made mandatory. Hence it can be very well be concluded that the

actual nos. of criminal cases with relation to the collection of subscription by forced means are by far more than those actually reported.

As per reply against an RTI. query by the petitioner, from Dr. Dhani Ram APIO. Bureau of Police Research and Development New Delhi, reflecting the actual no. of Police personnel against the sanctioned no. per lac of population in Indian States as on (01/01/2009) and also showing the comparison of police availability per lac of population for the years (2001 & 2002) between different countries of the Globe – It is clearly visible that our nation lags far behind among many nations of the Globe in terms of ensuring higher number of police personnel against every lac of population. Due to this insufficient no. the police is in all probabilities unable to provide the required security cover which ought to be extended to the citizens of the nation for ensuring proper and adequate safety and peace. Coupled with the comparative shortage of police personnel when matched with most other nations of the Globe, what has further aggravated the situation is that – even there is a remarkable difference between the actual and the sanctioned number of police personnel in the nation. Additionally it is not a hidden fact that our police force is ill equipped and compares poorly with the developed nations – (both in terms of technology& weaponry) who are benchmarks in terms of internal security. This double punch of lack of adequate manpower coupled with lack of latest technology – presents a strong case for effective deterrents.

25/05/2011 An article in Times of India – “India now a dangerous place to live in” !! The article reflects that, India's rank has fallen seven points on the Global Peace Index (GPI) 2011, which ranks countries according to how

peaceful they are. India now ranks 135 out of 153 countries. We are now amongst the 20 least peaceful nations in the world, along with countries such as Pakistan and Afghanistan.

"India's score remains the same on most parameters used to measure peacefulness. Homicide and crime rates in India, too, are a lot lower than many other countries. The fall in rankings is largely due to an increasing perception of criminality in society," says Steve Killelea, founder of the Global Peace Index.

The GPI, now in its fifth edition, has been developed by Killelea's Institute for Economics and Peace along with the Economist Intelligence Unit, the research wing of The Economist magazine.

Killelea feels the increased perception of violence in India may have a lot to do with the repeated terror attacks on the country in recent times. That India is in a volatile neighbourhood and has issues with countries such as Pakistan and China only adds to the threat perception," says Killelea.

27/06/2010 an article in Telegraph Kolkata mentioning that, as per a study reported in the Indian Police Journal, published by the Bureau of Police Research and Development, crime statistics are lower than incidence because policemen are reluctant to register F.I.R. The study was conducted in North Bengal by the Superintendent of Police and reflected that the number of recorded cases of crime went up by more than (400%) after registration of F.I.R.S was made mandatory. Thus it can be safely concluded that the scenario will not be very different in other parts of the nation as well.

04/10/2010 An article in, Times of India – “Elderly resident assaulted over puja subscription” !! The article said about, that how an elderly man named – Binoy Sen, was allegedly beaten up by members of a club at Phoolbagan, after residents of a housing complex refused to pay the quoted amount of Rs. (3000) against a payment of Rs.(1200) in (2009).

06/10/2010 An article in, The Telegraph – “Puja thugs lock up teachers” !! The article said about, that how (35) teachers including (10) women, were locked up in their East Midnapore school for (04) hours and some of them beaten up too, by the members of a local club.

10/10/2010 An article in, Times of India – “We love puja, but ... hate the last lap to it” !! The article said about, that among the reasons for which residents of Kolkata want to stay away during puja’s, was also the problem of chanda.

19/10/2010 An article in, The Telegraph – “Big puja hits small fries in Ganga ” !! The article said about, that how uncontrolled growth in number of puja’s being organised and the trend to immerse idols which are coloured with toxic paints only in the river Ganges, is resulting in poisoning of the scarce natural resource.

20/10/2010 An article in, The Telegraph – “Attack for chanda delay” !! The article said about, that how post puja immersion a resident in Belegghata – Nitin Lakhota an ordinary employee of a share trading firm, was beaten up with rods and bamboo sticks, after the cheque he gave to the puja organisers under duress had bounced.

20/10/2010 Report dated (20/10/2010) – “Duo thrashed over puja donation” published in Kolkata edition of Times of India.

23/10/2010 An article in, The Telegraph – “Cops plan chanda crackdown” !! The article said about, that receipts books of Kali puja organisers, who obtained permission from Kolkata police would be stamped.

28/10/2010 An article in, The Telegraph – “Chanda clash” !! The article said about, that how (6) men have been arrested in bally and section (144) clamped in area surrounding Bally Jute Mill, after supporters of (2) local clubs clashed over collection of chanda for Kali puja.

04/11/2010 An article in, The Telegraph – “Puja cash triggers mowdown” !! The article said about, that how a cyclist was mowed by a truck who tried to speed past youths – forcibly collecting Kali puja subscription on a road on the outskirts of Durgapur.

13/11/2010 An article in, The Telegraph – “Foreigner lives in festive fear” !! The article said about, how a French national – Jean Frederic Chevallier and his wife Sukla Bar Chevallier had been threatened for Kali puja subscription in Bansdroni in Kolkata.

20/11/2010 An article in, The Telegraph – “Pay chanda or face chopper” !! The article said about, how a Howrah club gang had slashed the hand of young man – Dinesh Parrek, with a meat chopper and he had to under go (19) stiches on his left hand, while he was trying to protect a trader who had refused to pay up - the organisers of a club organizing – Jagaddhartri puja, who had demanded Rs. (3000) from him.

03/12/2010 Report dated (03/12/2010) – “French national hounded out of home” published in Kolkata edition of Times of India.

06/12/2010 Rti. queries were initiated to the police establishment of both Kolkata and West Bengal.

07/12/2010 Rti. queries were initiated to the police establishment of both Kolkata and West Bengal.

16/12/2010 An article in, The Telegraph – “False case for puja cash refusal” !! The article said about, that how a poor farmer – Fatik Chandra bag in Hooghly who had refused to pay up subscription of Rs. (5000) for – Kali puja at the office state electricity company, was implicated in a false power theft case and had to languish in jail for almost (02) months.

07/01/2011 Reply from Dr. Dhani Ram APIO. Bureau of Police Research and Development New Delhi 07/01/2011 showing the actual number of Police personnel against the sanctioned number per lac of population in Indian States as on (01/01/2009).

Reply from Dr. Dhani Ram APIO. Bureau of Police Research and Development New Delhi 07/01/2011 showing the comparison of police availability per lac of population for the years (2001 & 2002) between different countries of the Globe.

07/02/2011 An article in, The Telegraph “Donation boys batter ASP” !! The article said about, that how the additional superintendent of police, Haldia – was beaten bloody which left him with broken nose and several bruises on his body.

07/02/2011 Report dated (07/02/2011) – “Cop thrashed on highway by donation extortionists” published in Kolkata edition of Times of India.

21/01/2011 A reply to an RTI. Query by the State Crime Records Bureau of Government of West Bengal.

21/02/2011 A reply to an RTI. Query by the State Crime Records Bureau of Government of West Bengal.

25/05/2011 An article in, Times of India – “India now a dangerous place to live in” !! The article said about, the drop in India’s rank by (07) points on the Global peace index (2011). India now ranks (135) out of (153) countries and is now amongst the (20) least peaceful nations in the world, along with countries such as Pakistan & Afghanistan.

30/05/2011 An article in, Times Of India – “Teacher killed for protesting use of loudspeakers” !! The article said about, how a primary school teacher – Monomohon Roy was abused, heckled and severely beaten up resulting in his death, who protested against the loud music being played by members of the very club he was the president of.

17/09/2011 An article in, The Telegraph – “Puja extortion on roads” !! The article said about, the plight of bus owners in East Midnapore District of West Bengal where they have been forced to pay subscription in name of puja to the bus terminus worker’s union ranging from Rs. (300 to 500) since they have been threatened that the buses would not be allowed to leave the terminus otherwise.

25/10/2011 An article in, The Telegraph – “Kids collect kali puja chanda” !! The article said about, that how kids barely (10) years of age who want to copy the adults are into collection of chanda.

25/10/2011 An article in, The Telegraph – “Pastor kicked, locked up after subscription row” !! The article said about, that how a pastor – a member of Carey Baptist Church on B. B. Ganguly Street in Kolkata, who refused to pay Rs. (300) for a Kali puja near his home in Baguiati area of

Kolkata was allegedly dragged and assaulted in day light by a group of around (20) people and kept confined in a room for than (02) hours till the police rescued him following a call from his son.

02/11/2011 An article in, The Telegraph – “At traders’s door – 21 clubs in town months” !! The article said about, that how a trader who had set up shop (06) months back, in the prime area (Kankurgachi) of Kolkata had (21) clubs knocking at his door for past (2.5) months to demand donations totalling Rs. (36000) for programmes ranging from a local area puja to a Karate Contest.

09/11/2011 An article in, Times Of India – “Assault for donation” !! The article said about, how a jewellery shop in Panihati area of suburban Kolkata was ransacked when the owner refused to give Rs. (10000) to a group using a political party banner, for holding a blood donation camp.

25/01/2012 An article in, The Telegraph – “Teenager killed” !! The article said about, a class (11) boy – Debanjan Pan who had gone to the state highway in order to avoid police, as early as am. (04) in winter to collect subscription for Saraswati puja, but unfortunately being run over when he tried to intercept the vehicle.

14/02/2012 An article in, The Telegraph – “Beaten up for noise protest” !! The article said about, goons beating up a (42) years old man who had requested them to reduce the volume of a blaring mike that was disturbing his daughter’s madhymik preparations.

07/04/2012 An article in, The Telegraph – “Club youths held for extortion” !! The article said about, assault of a (50) year old owner of a Hosiery Factory, for a Shitala Puja donation.

17/10/2012 An article in, The Telegraph – “Extortion in name of donation” !! The article said about, assault of a railway contractor Mr. Basant Kr. Gupta for non payment of (Rs.61,000) which was demanded towards souvenir subscription.

27/10/2012 An article in, The Times of India – “At Rs 123cr, puja spend touches new high this year” !! The article said about, some (4000) Durga Pujas, being organized in Kolkata city out of which (3000) are community pujas. The estimated budget was (123) crores.

03/11/2012 An article in, The Telegraph – “Extortion on Howrah roads” !! The article said about, people being stopped at (27) points along a (12) kilometer stretch in Howrah District and having to pay (Rs.15 To 25) at each stop.

10/11/2012 An article in, The Telegraph – “Five held for puja extortion” !! The article said about, assault of a couple in Sarsuna for not yielding to demands of the Puja Organisers.

12/11/2012 An article in, The Times of India – “Assault for subscription refusal” !!! The article said about, the assault of a president of traders association in Picnic Garden, for not yielding to demand of Puja Organisers.

13/11/2012 An article in, The Telegraph – “Blockade to protest cops’ puja cash drive” !! The article said about (500) villagers blocking a highway in Murshidabad, alleging that they were being forced to pay astronomical amounts for Kali Puja, being organized in a Police compound.

17/11/2012 An article in, The Telegraph – “Shop damaged over puja donation” !! The article said about, the signboard of a medical shop on Bondel Road being damaged, for non payment of Kali Puja Subscription.

21/11/2012 An article in, The Times of India – “Friends strangle 14-year-old, bury body” !! The article said about, the murder of a (14) year old by his friends, following a feud over sharing of Kali Puja Subscription.

02/09/2013 An article in, The Telegraph – “Puja collection ploy in robbery near Bypass” !! The article said about, a home of retired govt. official being looted by robbers, who knocked his door, with a subscription collection book.

10/10/2013 An article in, The Times of India – “Presidency faculty member 'assaulted' over Puja donation” !! The article said about, a faculty member of Presidency University being abused and assaulted for non payment of Puja donation.

02/11/2013 An article in, The Telegraph – “Chanda assault on lady” !! The article said about, a lady being severely assaulted, in Nadia District for non payment of Puja donation.

06/11/2013 An article in, The Telegraph – “Lady molested for music protest” !! The article said about, a home maker being assaulted for protesting against drunken revelry outside a Kali Puja Pandal in Tamluk.

06/11/2013 An article in, The Telegraph – “Immersion clash kills youth” !! The article said about, a youth being battered to death with bricks in Nadia District, during a clash between organizers of Kali Puja, during immersion procession.

13/11/2013 An article in, The Times of India – “Fish poisoned for Kali puja donation” !! The article said about, a pond in Kasba being poisoned for non payment of Kali Puja donation.

16/12/2013 An article in, The Telegraph – “Puja committee learns a tuition lesson - Students’ parents press for tutor return” !! The article said about, a

private tutor in Ranaghat being beaten up with bamboo sticks, on
(22/10/2013) for his refusal to pay (Rs.1500) as puja donation.