

## INDEX

<u>S.no</u>	<u>Particulars</u>	<u>Page No</u>
1.	Application for Impleadment	
2.	Affidavit	
3.	ANNEXURE A-1: Copy of the order dt 15.10.2012 in SLP( C ) 33436 of 2012	
4.	ANNEXURE A-2: Article on Buddhism written by the applicant.	
5.	ANNEXURE A-3: Copy of the letter dt 29.09.1980 by Mr. M.A. Dhote, Secretary to Government of Maharashtra addressed to the President, Budda Jana Seva Mandal.	
6.	ANNEXURE A-4: Copy of the letter dt 20.05.2013 addressed to the Hon'ble Prime Minister and The Minister Law & Justice.	
7.	ANNEXURE A-5: Copy of Judgement dt 19-09-1986 passed by the Hon'ble Patna High Court, Ranchi Bench in the Civil Writ Petition No. 424of 1986 (R) Bishwa Budha Parishad & anr Vs Ranchi University & others	
8.	ANNEXURE A-6: A copy of the Notification No. 1993-SO No. 1/11/93-MC(D), dt. 23.10.1993, issued by the Government of India.	
9.	ANNEXURE A-7: A copy of the Notification No. F. 7-5/2005-MC(P) dt.23.10.1993, issued by the Government of India.	

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION  
I.A. NO. \_\_\_\_\_ OF 2013**

**IN  
SPECIAL LEAVE PETITION (CIVIL) NO. 33436 OF 2012**

**IN THE MATTER OF:**

Birendra Kaur & Anr. ...Petitioners

Versus

Union of India ...Respondent

**AND IN THE MATTER OF:**

1. Shree Narayan Singh, S/o late Raghubar Narayan Singh, aged about 64 years, r/o Uddiyana, Dalip Mahal, Mohalla Purabsarai, PS Kotwali, Town, PO, Municipal Corporation & Distt. Munger, in the State of Bihar, by vocation an Upasaka householder & incarnate Buddhist Lama of the Himalayan Buddhist traditions of India

**APPLICATION FOR IMPLEADMENT AS INTERVENOR**

To

Hon'ble The Chief Justice and his  
Hon'ble Companion Justices of the  
Hon'ble Supreme Court of India

The humble Application of  
the Applicant/Petitioner above  
named –

**MOST RESPECTFULLY SHOWETH:**

1. That the Applicant is filing the present application to be impleaded as a party respondent.
2. That the Applicant is vitally interested in the outcome of the aforesaid Special Leave Petition. Vide the impugned

Judgment dated 03.10.11 passed in C.W.P No. 18634 of 2011, the Hon'ble High Court declined to address and advert to an issue of vital interest to the Buddhist community in particular and the citizenry at large.

3. That the aforesaid Special Leave Petition was listed before this Hon'ble Court on 15<sup>th</sup> October, 2012, wherein this Hon'ble Court was pleased to direct the issuance of notice. A copy of the order dated 15.10.2012 is annexed hereto and marked as **Annexure A-1**
4. That the applicant Shree Narayan Singh is a Buddhist Upasaka or householder, who is also by vocation an incarnate Buddhist Lama of the Himalayan Buddhist traditions of India.
5. That the pending SLP is in the nature of a public interest petition and in the outcome of which the Applicant has a deep interest, being a Buddhist.
6. That the Union of India has recognized the Buddhist community in India as constituting a Minority and which comes under the National Commission for Minorities as constituted by the Government of India.
7. That this Petitioner has an in-depth knowledge of legal demands that his community has been making for the last many decades.
8. That as such, he is pursuing a public interest to ensure that the long-pending demand of the Buddhist community

to be recognized as an independent and distinct religious entity within the framework of the Constitution of India rather than being clubbed together with the definition of the term 'Hindu'.

9. That there is no relationship which exists between what is termed Hinduism and that which is termed Buddhism, the two being totally different religious streams existing independent of each other.
10. That the Applicant, therefore, desires to be impleaded as a party by virtue of having an inherent interest in the outcome of the above-noted Special Leave Petition.
11. That the applicant, belongs to Bihar and besides being engaged in the running of his family estate, the Rai Bahadur Dalip Narayan Singh Trust Estate, Munger is also active in the promotion and re-establishment of Buddhism in the land of its birth.
12. That Buddhism is a distinct religion and its followers too are a distinct people, adorning a distinct Identity. [Article on Buddhism written by Shree Narayan Singh, recognized as the Indian incarnation of Jamyang Khyentse'i Wangpo, a Tibetan Lama of high standing of the 19<sup>th</sup> century, is attached herewith as **Annexure A-2.**]
13. That Buddhism is also recognized as an independent religion by the Constitution of India even though clubbed together with the term Hindu for convenience.

14. That the Constitution of India also provides certain safeguards for the Minorities, such as:

- Article 25 of the Constitution of India gives all religions of India the 'right freely to profess, practice and propagate' their religion.

- 42<sup>nd</sup> Amendment of the Constitution in 1976, has specifically added the word 'Secular' to the very Preamble of the Constitution.

- The Preamble secures to all its citizens Dignity [FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;]

- Articles 29 and 30 of the Constitution grants to Minorities, whether based on religion or language, the right to conserve their language, script, or culture as well as establish and administer educational institutions of their choice.

- The National Commission for Minorities, an Organization to safeguard the Constitutional and Legal Rights of the Minorities recognizes Muslims, Sikhs, Buddhist and now possibly Jains as distinct Minority Religions.

- The Constitution (One Hundred and Third Amendment) Bill, 2004, is before Parliamentary Standing Committee for giving a Constitutional status to the National Commission for Minorities, so

as to inspire greater confidence amongst the Minorities and to make the National Commission more effective in safeguarding their interests.

- In 2006, on the 29<sup>th</sup> January, the Government of India set-up a new Ministry called the Ministry of Minority Affairs to focus a special attention/ thrust on the issues relating to the Minorities.

15. That yet, the Buddhists feel upset and experience a loss of identity and have been seeking an enactment of a Buddhist Marriage Validation Act as well as an appropriate amendment of Article 25 of the Constitution of India since the Independence of India.
16. On 14<sup>th</sup> October, 1956, Dr B R Ambedkar publically embraced Buddhism at Deekshabhoomi, Nagpur, Maharashtra and on 17<sup>th</sup> October, 1956, at Chandrapur, Maharashtra.
17. That during this ceremony he took Refuge in the Three Jewels and received the Panchasheel or Five Precepts from the Buddhist Monk, U. Chandramani, in the traditional manner and, in his turn, administered them to the 600,000 of his followers who were present.
18. That later, many more people of scheduled caste from Madhya Pradesh, Maharashtra, Gujarat, Rajasthan, Andhra Pradesh, Karnataka, Uttar Pradesh, Punjab, Delhi and

many other places of the country adopted Buddhism through similar solemn ceremonies.

19. That Buddhist weddings, performed as per Buddhist traditions, are not recognized as valid custom by law of land till date.
20. That Buddhists are seeking, for many decades now, a validation of their marriage ceremony. Several moves have been made by the Buddhists for the same as well as for the establishment of an Independent Identity under the Indian Law:

- In response to a letter by the Buddha Jana Sewa Mandal, M A Dhote, Secretary to Government, Government of Maharashtra, gave assurance to the President of the Mandal, and recommended to the Government of India that statutory recognition be given to neo-Buddhists' rites with retrospective effect [Copy of the letter dt 29.09.1980 by Mr. M.A. Dhote, Secretary to Government addressed to the President, Budda Jana Seva Mandal is annexed herewith as **Annexure A-3**] The contents of the letter are reproduced herein as follows.

### **GOVERNMENT OF MAHARASHTRA**

NO. MHA, 1078/1144 (230)  
Law and Judiciary Department  
Mantrallaya, Bombay – 400 032  
Dated 29<sup>th</sup> September 1980

The President,  
Buddha Jana Sewa Mandal,  
Anandrao Marg, Ashok Nagar,  
Nagpur – 17

Sub: Proposed enactment of Buddhist Marriage Validation Act

“Sir,

With reference of your letter No. BMA/205, dated the 13<sup>th</sup> December 1978. I am directed to inform you that the Ninth Report of the Maharashtra State Law Commission on some aspects of the Hindu Marriage Act, 1955, referred to by you in your above-mentioned letter has already been forwarded by the Maharashtra to the Government of India with a request to undertake suitable legislation in Parliament to have uniform provision in respect of the simple provisions of Hindu Marriage throughout India. It has also been pointed out to the Government of India that the rites performed by the neo-Buddhists in Maharashtra State from 1956 in respect of their marriages appear to be different and therefore it may also be considered by the Government of India who there to meet the demands of the neo-Buddhists, a separate provision may be made in the Act at the earliest opportunity to give statutory recognition to these rites with retrospective effects, and to leave no doubt for doubt about the validity of marriages performed so far according to these rites and of the cites to many of children boem of such marriages.

Yours faithfully,

(M A Dhote)

Secretary to Government

- On 13<sup>th</sup> March, 1981, a Buddhist Marriage Validation Bill No. – 11 of 1981 was introduced in the Rajya Sabha. - On 17<sup>th</sup> August, 1984, the motion for consideration of the said Bill was moved by Shri S W Dhobe, then the Hon'ble Member of Rajya Sabha. It was also strongly supported by many members of the House, including the then Law Minister of India Mr Hans Raj Bhardwaj.

- Motion for consideration of the Bill was again moved on 18<sup>th</sup> January, 1985. On the assurance of the then Union Law Minister, Mr Hans Raj Bhardwaj, on the floor of the House that he will himself bring the official Bill for Buddhist Marriage Validation Act before the House, based on the assurance the bill was withdrawn by leave of the House on 18/1/1985.

- On the 20<sup>th</sup> May, 2013, the National Co-ordination Committee of Buddhist Organizations (India) for Buddhists Personal Law and Marriage Bill has written to the Hon'ble Prime Minister Dr Manmohan Singh and Minister of Law & Justice, GOI, seeking enactment of the said Buddhist Marriage Validation Bill No. 11 of 1981. [Copy of the letter sent to the Hon'ble Prime Minister and the Law Minister is annexed herewith as **Annexure A-4**]

- A National Commission was formed to review the working of the Constitution [NCRWC] in 2000. The Buddhist community represented against the provisions of Article 25 of the Constitution to this Commission. The Commission accepted their views and recommended amendment to the Article 25 [rewording of sub-clause (b) of clause (2) and omission of Explanation II] in its Report submitted to the Government of India in 2002.

- The National Co-ordination Committee of Buddhist Organisations (India) for Buddhists Personal Law and Marriage Bill has, as recently as 20/05/2013, in a letter to the Hon'ble Prime Minister Dr Manmohan Singh and Minister, Law & Justice, GOI, demanded the implementation of the recommendation of the NCRWC regarding Article 25. [Copy of letter dt. 20/05/2013 sent to the Hon'ble Prime Minister and the Hon'ble Law Minister is annexed herewith as **Annexure A-4**], which is as follows:

- (i) Explanation II to Article 25 should be omitted;
- (ii) Sub-clause (b) of Clause (2) of Article 25 be reworded as “(b) providing for social welfare and reform or the throwing open of Hindu, Sikh, Jain or Buddhist religious institutions of a public character to all classes and sections of these religions.”

21. Demand to amend Article 25 has also been raised by the Sikh community in the Parliament:

- (i) In 2005, Sardar Tarlochan Singh, MP, moved Private Member's Bill in the Parliament to amend Article 25 of Indian Constitution where the Sikhs have been described as part of Hindus.
- (ii) In 2012, Dr Rattan Singh Ajnala, MP, moved a Private Member's Bill in the Lok Sabha for the long-pending demand of the Sikhs to amend Article 25 of the Constitution that clubs Sikhs with Hindus.

22. The constitutional definition of minority Buddhist is found specially under Article 25, in "Explanation II.—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jain or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly." Similar legal definition also found under Section 2 of the Bihar Hindu Religious Trust Act, 1950.

23. But this constitutional definition of minority Buddhist as mentioned under Article 25, was legally finished when Minorities Commission was set up in 1978 by a Resolution No.II-16012/2/77-NID(D), Ministry of Home Affairs, Government of India, dated 12/1/1978, with Buddhists having minority status under the said Minorities Commission. However, this Resolution was amended by

another Resolution No.IV.12011/2/88-CLM, dated, 30/3/1988 to provide that the Minorities Commission would be directly concerned with safeguarding the interest of minorities based on religion only and the Special Officer appointed under Article 350B of the Constitution, commonly known as Commissioner for Linguistic Minorities, would not function as Secretary of the Commission, as was originally envisaged.

24. Moreover, with the enactment of the National Commission for Minorities Act, 1992 in parliament, the Commission became a statutory body and was renamed subsequently as National Commission for Minorities (NCM). The first Statutory Commission was set up on 17th May, 1993.
25. That the Ranchi Bench of the Hon'ble Patna High Court had in its judgement dt 19-09-1986, in the Civil Writ petition No. 424 of 1986 (R) Bishwa Budha Parishad & anr Vs Ranchi University & others, affirmed that Buddhists are a distinct Minority, and further brought out that Buddhists, Sikhs, Jains, Muslims, Christians are separate and independent in their faiths and practice rites and rituals peculiar to their denomination [Copy of judgement dt 19/09/1986 is annexed herewith as **Annexure A- 5**]

“Explanation II has never meant that Sikh, Jain or Buddhist are Hindus. It has recognized them as a religion, but for the purpose of giving effect to any

existing law or to empower the State to make laws for social welfare and reform, like Hindus - Sikh, Jain and Buddhist are also included in Article 25 (2) (b) of the Constitution. On this alone the first question framed in the order dated 9.4.1986, stands answered. Indeed, India has got the proud privilege of having with its faith in, Akoham, Dwait, Adwait and Vedant, faiths in many incarnations and other faiths of Hindus, Tirthankars of Jains and the Budha, the enlightened one, who all have given to their followers faiths and a religion to live for. In the same line are those who profess their faiths in the teachings of Koran, Bible, Guru Granth Sahib etc. They all are separate and independent in their faiths and practice, rites and rituals peculiar to their denomination.”

26. That from the foregoing, therefore, if “Explanation II has never meant that Sikh, Jain or Buddhist are Hindus”, then the expression “Hindu” should never have been used to refer to all these religions collectively in any legislation, whatsoever, that ensues therefrom.
27. The Government of India vide Notification of Minority Communities: 1993- SO No. 816 (E) F. No. 1/11/93-MC (D) Dt. 23.10.1993, in exercise of powers conferred in clause (c) of Section 2 the National Commission for

Minorities Act, 1992, notified the Muslims, Sikhs and Buddhists as a Minority Community. [A Copy of the Notification Dt. 23.10.1993 is annexed herewith as **Annexure A- 6 ]**

28. The Government of India although being conscious of its obligations under the Constitution and in particular Articles 29 and 30 of the Constitution that grants Minorities, whether based on religion or language, the right to conserve their language, script or culture as well as establish and administer educational institutions of their choice, issued a notification Dt. 18.01.2005 through the Ministry of Human Resources Development (Department of Secondary Education & Higher Education) whereby for the purposes of the Minority Education and Institutions Act, 2004, the Muslims, Sikhs and Buddhists were notified as a Minority Community. [A Copy of the Notification No. F. 7-5/2005- MC (P) Dt. 18.01.2005 is annexed herewith as **Annexure A-7]**.

29. Actually, the Government of India should completely delete the constitutional definition of the minority Buddhist as referred under Article 25, by constitutional amendment after or before formation of the Minorities Commission with ministerial resolution. It is may be a good example how Government of India consider the legal and constitutional status of minority Buddhists. Moreover, National

Commission to Review the Working of the Constitution of India (NCRWC) has also recommended removing the “Explanation II.”

30. As recently as 7<sup>th</sup> June, 2012, the amended Anand Marriage Act, 1909 [now called Anand Marriage (Amendment) Act, 2012] received assent from the President of India, which granted right to Sikh community to register their marriage under the Act, thus officially recognizing an Independent status of the Sikh religion under the Indian Law. It is respectfully submitted that the Buddhist community must also be given the same right.
31. The struggle of the Buddhists for an Independent Identity continues to date, as their demand has been disregarded so far. The said Article 25 clubs the Buddhists, Sikhs and Jainas along with some others with the Hindus even though their religions are distinct and independent of Hinduism.
32. Based on the said Article, the family laws for the Buddhists have been framed, which are applicable to them. These include *inter alia* the Hindu Marriage Act, 1955; the Hindu Adoption and Maintenance Act, 1956; the Hindu Succession Act, 1956; and the Hindu Minority and Guardianship Act, 1956; etc. In the said legislative enactments, and as brought out in the SLP, in addition to the word “Hindu” being used as the name of a religion, the

same [word "*Hindu*"] has also been defined as those professing the Hindu, Sikh, Buddhist and Jain religion, etc. This results in clubbing of these Minorities as part and parcel of "Hindus" whereas their religions are distinct, separate, and independent of the Hindu religion. This has, therefore, affected the rights of the Buddhists, along with those of other Minorities covered hereunder. In the legal world, each word used is weighed to ensure that its connotations and implications are explicit; that there is no ambiguity. Therefore labeling, nay mislabeling, the followers of one religion by the name of another religion is no small legislative error, as it leads to obliteration of existence of a people(s) altogether. The titles and texts of these legislations are liable to be so revised as to bring about clear and distinct identity of the Minorities in the Indian Law vis-à-vis the Majority.

33. The headings of these Enactments are liable to be so modified by giving a different name, say for example, "Ethnic" or "National" or "Native" or "Indian", and these Enactments be called, say for example, the Ethnic Marriage Act or Ethnic Succession Act, and so on. And, the word "Ethnic" or "Native" for the purposes of these enactments shall include a Hindu, Sikh, Buddhist, Jain, and some others. In this manner, none of these Minorities will be clubbed with or be inclusive of Hindus and these

would be able to enjoy a distinct and independent identity guaranteed to them in the Constitution. Therefore, it is hereby being sought that the “expression” *Hindu* be quashed insofar as it clubs the Buddhists as well as the other Minorities included hereunder, and makes them inclusive of Hindus. As all the religions are recognized to be equal by the Constitution, therefore, till such time that the uniform civil code is adopted, all of these must enjoy equal and independent status, so as to ensure that the spirit of the Constitution is not negated. A minor correction can go a long way in realizing the aspirations of all these Minorities to be recognized as Independent religions, in their home country - as also the country of their birth.

34. The Buddhist Community is, as such, entitled to seek its legitimate rights as enshrined under the Constitution. Denial of an independent identity to Buddhists is, in fact, a negation of the very spirit of the Constitution. The various Acts relating to aspects of family law, such as, Succession, Marriage, Adoption & Maintenance, and Minority & Guardianship, all use the expression “Hindu” in their Titles as well as texts, although they also apply to Buddhists, Sikhs and Jains amongst others – which is against the very concepts enshrined even in the Preamble of the Constitution - to treat all equally, and with dignity.

35. In view the findings of the National Commission to Review the Working of the Constitution (NCRWC) may also be accepted and implemented, and wherever the word “Hindu” is used as an ‘expression’ in the Indian Law to include all separate, distinct religions which are also constitutionally recognized to be so, should be amended and replaced with the appropriate terminology.

### **P R A Y E R**

It is, therefore, most respectfully prayed that this Hon’ble Court may be pleased to:

a) allow the Applicant to be impleaded as a party respondents in the above Special Leave Petition (C) No. 33436 of 2012;

b) pass such other or further orders as this Hon’ble Court may deem fit and proper in the facts and circumstances of the case and in the interest of justice.

Filed by:

(Advocate for the Applicant/Petitioner)

New Delhi

Dated: