

IN THE HON’BLE HIGH COURT OF GUJARAT AT
AHMEDABAD

District: Rajkot

WRIT PETITION NO. _____ OF 2020 (PIL)
(EXTRA ORDINARY JURISDICTION)

In the matter between;

Pruthvirajsinh Zala ... Petitioner

Versus

High Court of Gujarat ...Respondent(s)

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SYNOPSIS

The present Writ Petition is filed under Article 226 of Constitution of India, in the light of the provision enshrined in our Constitution which ensure right to know and open justice. The petitioner herein is a student pursuing B.A.LL.B.(Hons.) at Institute of Law, Nirma University, Ahmedabad, Gujarat. Having been felt the dire need of establishing live-streaming of court proceedings of the High Court of Gujarat the petitioner has moved this petition before this Hon'ble Court in the present Public Interest Litigation. The present petition is seeking interim direction to make virtual hearings of High Court of Gujarat open and publicly accessible. The petition also seeks direction for framing rules and setting up live-streaming mechanism in High Court of Gujarat courtrooms.

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District: Rajkot

**WRIT PETITION NO. _____ OF 2020 (PIL)
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In the matter of
Writ Petition (Public Interest Litigation)
Under Article 226 of Constitution Of India

For the violation of Articles 21 & 19(1)(a) of
the Constitution of India

In matter seeking urgent measures
for open access in virtual hearings and setting up
live streaming of court proceedings in courtrooms

In the matter between

Pruthvirajsinh Zala

Age: 20 (Adult), Occupation: 3rd year Student
Institute of Law, Nirma University

....Petitioner

Versus

**1. High Court of
Gujarat**

Through Registrar General
High Court of Gujarat
Sola, Ahmedabad
Pin Code : 380 060
Gujarat, India

...Respondent

To,
The Hon'ble Chief Justice And
The Other Companion Judges Of
The Hon'ble High Court Of Gujarat

Humble Petition of the Petitioner Above Named.

MOST RESPECTFULLY SHEWETH:-

1. That the present Petition under Article 226 of the Constitution of India is being filed by way of public interest litigation and the petitioner has no personal interest.
2. That the petitioner is a 3rd Year (Semester-V) Law Student pursuing B.A.,LL.B. (Hons.) at Institute of Law, Nirma University, Ahmedabad. That the petitioner had earlier filed a public interest litigation [Pruthvirajsinh Zala v. State of Gujarat, WP (PIL) No. 78 of 2019] in this Hon'ble Court with regards to the arbitrary and unconstitutional ban on PUBG by Rajkot City Police. In course of hearings of that petition, the arbitrary-unconstitutional ban was lifted by Rajkot City Police, thus the petition was disposed as withdrawn. That the petitioner had earlier filed a public interest litigation

[Pruthvirajsinh Zala v. State of Gujarat, WP (PIL) No. 43/2020] in this Hon'ble Court with regards to seeking urgent measures in light of COVID-19 spread. The petitioner had mentioned the PIL for urgent listing on 5th March, 2020 and the PIL is pending thereafter in light of WP (PIL) No. 42/2020 (Suo Motu) & Lockdown. (PIL only listed once on 17th March, 2020 wherein petitioner-in-person could not appear due to family emergency.)

3. That the petitioner has not filed any other petitions seeking similar or same relief before any court or tribunal. That the petitioner is filing the present petition purely in Public Interest on his own and not at the instance of any other person or organization. That though the petitioner is a student, however, if in case any cost is imposed on the petitioner by this Hon'ble Court, the petitioner is capable of depositing the same to this Hon'ble Court.

4. That the facts of the case in brief are as follows:

4.1. The Petitioner humbly states and submits that the with the spread of COVID-19 pandemic Hon'ble Gujarat High Court has started hearing cases through virtual mode.

4.2. The Petitioner most respectfully submits that e-filing and virtual hearings are welcome steps in furtherance of digitalization of courts. However, the

present set-up of virtual hearings is inaccessible to public at large including litigants, media personnel and law students etc.

4.3. The petitioner further submits that the right of access to justice flows from Article 21 of the Constitution. The concept of justice at the doorstep, would be meaningful only if the public gets access to the proceedings as it would unfold before the Courts and in particular, opportunity to witness live proceedings in respect of matters having an impact on the public at large or on section of people.

4.4. The petitioner further submits that indisputably, open trials and access to the public during hearing of cases before the Court is an accepted proposition and can be traced to provisions such as Section 327 of the Code of Criminal Procedure, 1973 (CrPC) and Section 153-B of the Code of Civil Procedure, 1908 (CPC).

4.5. The petitioner further submits that Live streaming/Open Access of Court proceedings is feasible due to the advent of technology and, in fact, has been adopted in other jurisdictions across the world as well in few other High Courts. Even in normal parlance physical hearings ought to be made more

accessible by setting up live-streaming mechanism.

4.6. The petitioner submits that amidst the pandemic restrictions and safety measures United States Supreme Court is conducting hearing through teleconference which is being live streamed in real time. The Supreme Court of United Kingdom live streams its proceedings in normal course and is being continuing to do so at present. The Kerala High Court is live-streaming its hearings. The Bombay High Court had also held open-for-public video-conferencing hearing. Rule 16.1 of *High Court of Delhi Rules for Video Conferencing for Courts 2020* states that; “To observe the requirement of an open Court proceeding, members of the public will be allowed to view Court hearings conducted through video conferencing, except proceedings ordered for reasons recorded in writing to be conducted in-camera. The Court shall endeavour to make available sufficient links (consistent with available bandwidth) for accessing the proceedings.” Pursuant to Rule 16.1 Delhi High Court on 20th June, 2020 vide Circular No.01/IT/DHC/2020 ordered that links will be offered for public. The said circular is s annexed as **ANNEXURE A**.

5. The source of information of the facts pleaded is based on News Reports. The said news reports are accessible at the following links;

<https://www.livelaw.in/columns/hearings-during-covid-19-kerala-high-court-and-justice-gautam-patel-of-bombay-155063>,

<https://indianexpress.com/article/cities/mumbai/after-virtual-courtroom-experiment-bombay-hc-to-live-stream-cases-till-april-14-6355744/>,

and

<https://www.aljazeera.com/news/2020/05/time-supreme-court-arguments-broadcast-live-200501150004914.html>.

6. That the petitioner has made a representation in this regard on 23rd April, 2020 to Hon'ble Chief Justice of Gujarat & other Companion Judges of High Court of Gujarat through E-mail. The said E-mail is being annexed as **ANNEXURE-B** and the representation letter is being annexed as **ANNEXURE-C**.
7. The Petitioner states and submits that to the best of knowledge of the petitioner, no public interest petition (whether filed by the petitioner himself or by anyone else) raising the same issue is filed before this Hon'ble Court or before any other Court.
8. That in the aforementioned facts and circumstances, the present petition is being filed on the basis of the following, amongst other, grounds:

G R O U N D S

A. Because Right of access to justice is a part and parcel of Article 21 & Article 19(1)(a) of the Constitution.

B. Because nine-judge Bench of Hon'ble Supreme Court of India in ***Naresh Shridhar Mirajkar vs. State of Maharashtra and Ors. (1966) 3 SCR 744*** held that “... It is well-settled that in general, all cases brought before the Courts, whether civil, criminal, or others, must be heard in open Court. Public trial in open court is undoubtedly essential for the healthy, objective and fair administration of justice. Trial held subject to the public scrutiny and gaze naturally acts as a check against judicial caprice or vagaries, and serves as a powerful instrument for creating confidence of the public in the fairness, objectivity, and impartiality of the administration of justice. Public confidence in the administration of justice is of such great significance that there can be no two opinions on the broad proposition that in discharging their functions as judicial Tribunals, courts must generally hear causes in open and must permit the public admission to the court room. As Bentham has observed : “In the darkness of secrecy sinister interest, and evil in every shape, have full swing.

Only in proportion as publicity has place can any of the checks applicable to judicial injustice operate. Where there is no publicity there is no justice. Publicity is the very soul of justice. It is the keenest spur to exertion, and surest of all guards against improbity. It keeps the Judge himself while trying under trial (in the sense that) the security of securities is publicity". (Scott v. Scott [(1911) All. E.R. 1, 30])"

C. Because Hon'ble Supreme Court of India in ***Swapnil Tripathi v. Supreme Court of India (2018) 10 SCC 639*** held that courts must also take the aid of technology to enhance the principle of open courts by moving beyond physical accessibility to virtual accessibility.

D. Because Hon'ble Supreme Court of India in ***Swapnil Tripathi v. Supreme Court of India (2018) 10 SCC 639*** held that Courts in India are ordinarily open to all members of public, who are interested in witnessing the court proceedings. However, due to logistical issues and infrastructural restrictions in courts, they may be denied the opportunity to witness live Court proceedings in *propria persona*. To consummate their aspirations, use of technology to relay or publicize the live court proceedings can be a

way forward. By providing “virtual” access of live court proceedings to one and all, it will effectuate the right of access to justice or right to open justice and public trial, right to know the developments of law and including the right of justice at the doorstep of the litigants. Open justice, after all, can be more than just a physical access to the courtroom rather, it is doable even “virtually” in the form of live streaming of court proceedings and have the same effect.

E. Because Hon’ble Supreme Court of India in ***Swapnil Tripathi v. Supreme Court of India (2018)*** **10 SCC 639** held that the right to know and receive information, it is by now well settled, is a facet of Article 19(1)(a) of the Constitution and for which reason the public is entitled to witness Court proceedings involving issues having an impact on the public at large or a section of the public, as the case may be. This right to receive information and be informed is buttressed by the value of dignity of the people. One of the proponents has also highlighted the fact that litigants involved in large number of cases pending before the Courts throughout the

country will be benefitted if access to Court proceedings is made possible by way of live streaming of Court proceedings. That would increase the productivity of the country, since scores of persons involved in litigation in the courts in India will be able to avoid visiting the courts in person, on regular basis, to witness hearings and instead can attend to their daily work without taking leave.

9. That the petitioner is seeking interim relief on the ground that in light of present set-up of virtual hearings the court proceedings are inaccessible to public at large and there is a dire need to make the High-Court proceedings open-for-public and accessible.
10. The applicant submits that the applicant has not filed any other petition with regard to the subject matter of this petition, either before this Hon'ble court or any other court of law in India, including the Hon'ble Supreme court of India, except as stated herein above.
11. The petitioner has no other alternative efficacious remedy but to approach this Hon'ble Court by way of this petition. The petitioner has been unable to e-file sworn affidavit and pay court fees in light of COVID-19 safety measures. The petitioner will fulfil the same requirements subsequently.

P R A Y E R

12. The applicant therefore prays that:-

(a) YOUR LORDSHIPS, during the pendency of this petition be pleased to grant interim relief of open-public access to the virtual hearings of the High Court of Gujarat and frame necessary rules thereof;

(b) YOUR LORDSHIPS, be pleased to admit and allow the petition;

(c) YOUR LORDSHIPS, be pleased to declare that proceedings of High Court of Gujarat be live streamed and necessary steps be taken by the Registry for setting up Live-Streaming mechanism in courtrooms.

(d) YOUR LORDSHIPS, be pleased to frame guidelines or rules to administer live streaming of court proceedings;

(e) YOUR LORDSHIPS, be pleased to grant further relief as deemed just in fact and circumstances of the case in the interest of justice.

AND FOR THIS ACT OF KINDNESS THE PETITIONER IS DUTY BOUND SHALL EVER PRAY.

PETITIONER IN PERSON

Pruthvirajsinh Zala

ANNEXURE A**HIGH COURT OF DELHI: NEW DELHI**

No.01/IT/DHC/2020

Dated: 20.06.2020

CIRCULAR

The High Court of Delhi Rules for Video Conferencing for Courts 2020 permit public viewing of court proceedings. The relevant Rule is extracted hereinafter: -

“16.1 In order to observe the requirement of an open Court proceeding, members of the public will be allowed to view Court hearings conducted through video conferencing, except proceedings ordered for reasons recorded in writing to be conducted in-camera. The Court shall endeavour to make available sufficient links (consistent with available bandwidth) for accessing the proceedings.”

Thus, links will be offered for public viewing so long as the stability of the system is not disturbed i.e. is consistent with the available bandwidth. Therefore, all those who are interested in obtaining links for viewing court hearings can contact the concerned Court Master/court official on their mobile phone numbers published in the cause list, in the very least, by 9 p.m. on the day prior to the date of hearing

However, if for any reason contact with the concerned Court Master/court official is not made by 9 p.m. on the date prior to the date of hearing fixed in the matter, then, the person seeking a link should get in touch with the Court Master/court official by 10 a.m. on the day of the hearing.

No request though, will be entertained once the hearing has commenced except with the permission of the court.

Those who are given a link for viewing the court proceedings will ensure that their mic is kept on mute mode and the video on switch-off mode.

By Order

(Manoj Jain)
Registrar General

Endst. No. No.02/IT/DHC/2020

Copy forwarded to all concerned.