

IN THE SUPREME COURT AT NEW DELHI
CIVIL ORIGINAL JURISDICTION
(PUBLIC INTEREST LITIGATION PETITION)
WRIT PETITION (CIVIL) NO. 250 OF 2007
(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

IN THE MATTER OF:

NANDINI SUNDAR
RAMACHANDRA GUHA
E.A.S. SARMA

...PETITIONERS

VERSUS

STATE OF CHATTISGARH

...RESPONDENTS

PAPER BOOK

(FOR INDEX, KINDLY SEE INSIDE)

ADVOCATE FOR THE PETITIONER :

SYNOPSIS AND LIST OF DATES

The Petitioners are seeking the indulgence of this Hon'ble Court, by way of a public interest litigation under Article 32 of the Constitution, on account of the grave situation that has been created and further precipitated by the active involvement of the Respondent-State since the inception of the so-called voluntary association, the 'Salwa Judum', (also known as 'Jan Jagran Abhiyan') resulting in the serious deprivation of the fundamental rights of the inhabitants of Dantewara district, more particularly Articles 14, 19(1) (a), 19 (1) (d), 19 (1) (e), 21 and 22 of the Constitution of India. In essence, the Petitioners seek certain directions/ orders/ guidelines from this Hon'ble Court in relation to the recent measures adopted by the Respondent in its endeavour to counter the Naxalites in Dantewara District resulting in the drastic impairment of these fundamental rights of the inhabitants of the district.

Since June 2005, a movement known as the 'Salwa Judum' was launched to combat the Naxalites in Dantewara District in the State of Chattisgarh. It is a deliberate Government sponsored strategy to counter the Naxalites in the district. Several independent NGO enquiries and the National Commission for Women have demonstrated the manner in which the 'Salwa Judum' is clearly funded and promoted by the Respondent-State and the intensified violence and utter lawlessness that has occurred in the district as a consequence of this vigilante movement.

In frequent raids on villages carried out jointly by the 'Salwa Judum' activists and the security forces, suspected Naxalite sympathizers (sangham members) are beaten and brutally killed; their houses torched, and livestock looted. In several instances, the raids continue till the entire village is cleared and all the villagers are compelled to move into Salwa Judum camps. The modus operandi, as borne out in the District Collector's work proposal is to make the Jan Jagran Abhiyan successful, the rationale being that the real strength of the

Naxalites lies in the support base they have created in the villages, and if the villagers are removed, the Naxalites will be finished. Far from being a peaceful campaign, 'Salwa Judum' activists are armed with guns, lathis, axes, bows and arrows. Up to January 2007, 4048 "Special Police Officers" (SPOs) had been appointed by the Government under the Chhattisgarh Police Regulations. They actively participate in the 'Salwa Judum' movement and are given military and weapons training by the security forces as part of an official plan to create a paramilitary vigilante structure parallel to that of the Naxalites. These gun wielding SPOs are mostly unemployed tribal youth and minors. The appointment of minors by the Government as SPOs, is per se a flagrant violation of Article 39 (e) and (f), violative of the statutory embargo of employing child labour in hazardous activities under the Child Labour (Prohibition and Regulation) Act, 1986 apart from being blatantly violative of international conventions such as the UN Convention on the Rights of the Child and Child Rights Convention.

These armed 'Salwa Judum' activists have also been known to be involved in illegal checking of all vehicles passing through their area and levying illegal taxes on occupants of the vehicles. There have also been reports of these activists looting the occupants of vehicles who refuse to pay their illegal levies.

The police and security forces are also illegally detaining people suspected of being Naxalites or their sympathizers without recourse to Article 22 of the Constitution of India or the directions of this Hon'ble Court in relation to the arrest of an accused in *DK Basu v. State of West Bengal* (1997) 1 SCC 416. More shockingly, brutal atrocities, complaints of extreme sexual violence against women, including rape, gang-rape, maiming and beating, and even killings committed by the 'Salwa Judum' activists and security forces go unrecorded since the police refuse to register First Information Reports (FIRs).

The Government has set up relief camps in Dantewara district for all those villagers who have had to vacate their homes, as a consequence of the 'Salwa Judum' campaign. As of January 2007, 47,238 people were living in 20 relief camps, as Internally Displaced Persons (IDPs). Out of the 1354 villages in

Dantewara district, a total of 644 villages have been affected by Salwa Judum. The conditions in these camps are deplorable and sub-human, nutrition, especially child nutrition, has been badly affected with inmates of these camps receiving scant rations, and medical facilities remain scarce.

Most of the IDPs are ordinary villagers who have been coerced by the 'Salwa Judum' activists and security forces to leave their villages and live in these relief camps. Their daily lives have been uprooted and their livelihoods destroyed due to the ongoing evacuation of these villages. There is also an acute lack of security since these camps are set up along the roadside and are vulnerable to retaliatory attacks by the Naxalites.

Since several government schools have been converted into camps for security forces, or have been converted into Salwa Judum camps, the education of children in the district is nearly at a standstill.

Thus there is a complete breakdown of the civil administration and the rule of law in Dantewara district and 'Salwa Judum' activists have become vigilantes who assert the right to control, intimidate and punish anyone they consider to be a suspected Naxalite. The 'Salwa Judum' movement has only intensified the conflict even according to the Respondent's own official figures. It is therefore plain that though the Government does not accept responsibility for the actions of the 'Salwa Judum' activists, it sponsors, encourages, promotes and assures them full state protection and grants them impunity to operate as an extra-legal authority within the district. The Petitioners seek the indulgence of this Hon'ble Court to vindicate the rule of law and remedy the hardships and miseries caused to the inhabitants by the Respondent.

LIST OF DATES

1980s: People's War Group dalams enter Bastar district from Andhra Pradesh. They took up core issues of minimum wages, increasing tendu patta rates, ensuring attendance by school teachers etc. Isolated attacks by the Naxalites on individuals, however, occurred, mostly on forest guards, police personnel and some landlords.

1980-1995: People's War Group mass organisations, the Dandakaranya Adivasi Kisan Mazdoor Sanghatan (DAKMS) and the Krantikari Adivasi Mahila Sangathan (KAMS) recruit thousands of villagers, across South Bastar (now Dantewara district). Village level units of these organisations are known as sanghams, consisting of 10-12 villagers.

2/4 June 2005:

Third Jan Jagran Abhiyan started around Kutru in Dantewara district. Meetings were held with villagers around Kutru to persuade them to join a Jan Jagran Abhiyan. The patel and sarpanch of several villages gave orders to villagers to attend these meetings. Those who did not participate were threatened that their villages would be burnt. The Salwa Judum activists along with security forces went to villages, especially those considered Naxalite strongholds, burnt houses, looted grain and money and killed individuals.

June- July 2005:

Some 15,000 people were compelled to leave their villages and camp along the roadside. Government said that they were fleeing Naxalite violence. Villagers claimed that they had been forcibly brought by Salwa Judum and security forces. 17 makeshift relief camps were set up along the Bhairamgarh-Bijapur road.

June 2005–February 2006:

Villages in Bijapur and Bhairamgarh blocks were affected by the Salwa Judum movement and scores of people killed by Salwa Judum activists and houses burnt but no FIRs were registered. Naxalites retaliated by killing Salwa Judum activists. There are reports within this period of 7 people killed in Kotrapal village and the entire village relocated to a Salwa Judum camp, 3 people killed in Munder village and the entire village emptied and moved to a Salwa Judum camp, 3 people killed in Karremarka village by Salwa Judum activists, 2 by Naxalites, 3 people killed in Markapal village by Salwa Judum and security forces, 3 people killed in Padedda village, 5 people killed in Mankeli village by the Salwa Judum and security forces, 10 villagers killed in Hariyal Cherli village, and the

villages of Burji, Mundbedi, Kavadi, Pidiya, Andri, Hiril, Mallur, Palnar, Tamodi, attacked by the Salwa Judum and security forces.

February 2006- March 2007:

Sustained Salwa Judum and security forces attacks in and around Bijapur and Konda tahsils. Scores of villages were burnt by Salwa Judum activists and security forces including Arlempalli, Palemadgu, Gaganpalli, Asirguda, Regadigatta, Neelamadgu and Gaganpalli (2006), Singaram, Veerapuram, Ganglur, Tumul, Kistaram, Battiguda, Paledma, Gachanpalli, Gachanpada, Velkar, Bhandarpadar, Nagaram, Velpocha, Birel (2007)

April 2006 PUCL, Chattisgarh and Jharkhand, PUDR Delhi and APDR, West Bengal documented their enquiry into the violations of people's rights during the Salwa Judum campaign

July 2006 Independent Citizens' Initiative released the enquiry report conducted by them into the ground situation in Dantewara district.

December 2006

The National Commission for Women released a detailed report raising several objections to the manner in which the Respondent had been promoting the Salwa Judum and thereby enhancing violent incidents.

31 March 2007

7 villagers killed in Santoshpur village and 7 houses burnt in Bhogamguda village, 5 houses in Ponjer and 1 house in Santoshpur by Salwa Judum activists and security forces.

May 2007 The Petitioners have approached this Hon'ble Court, under Article 32 of the Constitution, on account of the grave situation that has been created and further precipitated by the active involvement of the Respondent-State since the inception of the so-called voluntary association, Salwa Judum, resulting in the deprivation of the fundamental rights of the inhabitants of the district, more particularly Articles 14, 19(1) (a), 19 (1) (d), 19 (1) (e), 21 and 22 of the Constitution of India.

IN THE SUPREME COURT AT NEW DELHI

CIVIL ORIGINAL JURISDICTION

(PUBLIC INTEREST LITIGATION PETITION)

WRIT PETITION (CIVIL) NO. OF 2007

(UNDER ARTICLE 32 OF THE CONSTITUTION OF INDIA)

BETWEEN:

STATUS OF THE PARTIES

- | | |
|----------------------|-------------|
| 1. Nandini Sundar | Petitioners |
| | |
| 2. Ramachandra Guha, | |
| | |
| 3. E.A.S. Sarma | |

AND

- | | |
|--|--------------------------|
| 1. State of Chattisgarh,
Through Chief Secretary,
Mantralya ,
Raipur, Chattisgarh | Contesting
Respondent |
|--|--------------------------|

To

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

The Writ petition of the petitioner above named

MOST RESPECTFULLY SHOWETH:

- The Petitioners are citizens of India and have been genuinely concerned about the issues and problems of adivasis in India. Petitioner No. 1, Dr. Nandini Sundar, is a Professor of Sociology at the Delhi School of Economics, Delhi University, and author of Subalterns

and Sovereigns: An Anthropological History of Bastar (2nd ed 2007), as well as numerous books and articles on adivasis, forests and the erstwhile undivided Bastar district (which included the present Dantewara district in Chattisgarh). Petitioner No. 2, Dr. Ramachandra Guha, is a well known historian, environmentalist and columnist and the author of *Savaging the Civilised: Verrier Elwin, His Tribals and India* (1999), as well as a number of other books and articles on the environment and India's history. Petitioner No. 3, E.A.S. Sarma is a former Secretary to the Government of India and former Commissioner, Tribal Welfare and Secretary, Tribal Welfare, Government of Andhra Pradesh. Together, the Petitioners were members of an Independent Citizens Initiative, which conducted an enquiry in May 2006 into the ground situation in Dantewara district in the State of Chattisgarh, and remain deeply disturbed by what they had occasion to witness in relation to the plight of the adivasis of the Naxalite-affected district, especially since the inception of the 'Salwa Judum' movement in June 2005. The Petitioners have also expressed their concern and anguish with regard to the 'Salwa Judum' movement in personal meetings with the Prime Minister, Home Minister, National Security Advisor, Minister of State for Home Affairs and the National Human Rights Commission on 23.2.2007, 24.2.2007, 22.2.2007, 27.2.2007 and 31.5.2006 respectively.

2. The Petitioners have approached this Hon'ble Court, under Article 32 of the Constitution, on account of the grave situation that has been created and further precipitated by the active involvement of the Respondent-State since the inception of the so-called voluntary association, Salwa Judum, resulting in the deprivation of the fundamental rights of the inhabitants of the district, more particularly Articles 14, 19(1) (a), 19 (1) (d), 19 (1) (e), 21 and 22 of the

Constitution of India. In essence, the Petitioners seek certain directions/ orders/ guidelines from this Hon'ble Court in relation to the recent measures adopted by the Respondent in its endeavour to eradicate the Naxalites from Dantewara District resulting in the grave impairment of these fundamental rights of the inhabitants of the district.

3. The Petitioners submit that the present matter is of utmost national concern since the Central Government has, by way of a national policy, declared to actively support the "local resistance groups" and in this respect is using the experiment in Chhattisgarh, by means of the Salwa Judum, as a replicable model for other parts of the country. (A Copy of extracts from the Ministry of Home Affairs, Government of India, Annual Report for 2003-4, 2004-5, 2005-6, is annexed hereto and marked as **ANNEXURE P/1 COLLY.**) In this context, it is also relevant to note the Ministry of Home Affairs' Status Paper on the Naxal Problem and the Minutes of the 20th meeting of the Coordination Centre held on 31.3.2006. (A true and correct copy of the Ministry of Home Affairs Status Paper on the Naxal problem dated May 2006 and Minutes of the 20th meeting of the Coordination Centre dated 31.3.2006 are annexed hereto and marked as **ANNEXURE P/2 COLLY.**) Significantly, the official policy of the Respondent has precipitated the conflict and has led to an unprecedented increase in the violence in this region. The most detailed enunciation of the strategy of the local administration towards promoting local vigilante groups like the Salwa Judum is in the 'Collector's Work Proposal for the Jan Jagran Abhiyan 2005'. (A true and translated copy of the Collector's Work Proposal for the Jan Jagran Abhiyan 2005 is annexed hereto and marked as **ANNEXURE P/3**)

4. The Petitioners do not dispute the authority of the Central Government and the Respondent-State in employing measures to counter the Naxalites. However, the present measures employed by the Respondent violate the fundamental rights of the inhabitants of Dantewara district and the Petitioners seek the indulgence of this Hon'ble Court to vindicate the rule of law and remedy the hardships and miseries caused to the inhabitants by the Respondent.

5. **BRIEF FACTS OF THE CASE**

The Petitioners seek to apprise this Hon'ble Court of the gross violation of fundamental rights and basic human rights of the inhabitants of Dantewara district. The facts leading to the filing of the instant petition are enumerated herein below :-

- (a) Dantewara District has a predominantly tribal population (78.5%), which has historically been exploited. It still remains a primarily backward area with a low literacy rate (30.2%), high infant mortality rate, and reports of starvation deaths. There are only 34 primary health care centres (PHCs) in Dantewara for a population of 7.19 lakhs, and less than one primary school for every village. The average landholding in Dantewara is 1.01 ha, barely 2% of the land is irrigated, and a little less than half the total area of the district is forest land. The residents are dependent on agriculture and the collection and sale of minor forest produce, especially tendu patta (*Diospyros melanoxylon*). The Naxalites have been active in this area since the 1980s and have gradually replaced the traditional structures of authority at the village level in this district by creating 'sanghams', or committees to call meetings and carry out village level activities.

- (b) However, since June 2005, a movement known as the 'Salwa Judum' (Jan Jagran Abhiyan) was launched to combat the Naxalites in Dantewara District. It is a deliberate Government sponsored strategy to counter the Naxalites in the district. Several independent NGO enquiries have demonstrated the manner in which the 'Salwa Judum' is clearly funded and promoted by the Government and the intensified violence and utter lawlessness that has occurred in the district as a consequence of this vigilante movement. (A copy of the enquiry into the violations of people's rights during the Salwa Judum campaign (April 2006) by PUCL, Chattisgarh and Jharkhand, PUDR Delhi and APDR, West Bengal is annexed hereto and marked as **ANNEXURE P/4**. A Copy of the enquiry into the ground situation in Dantewara district by the Independent Citizens' Initiative (July 2006) is annexed hereto and marked as **ANNEXURE P/5**. A Copy of the enquiry into the violence on women in Dantewara district by An All India Women's Team (December 2006) is annexed hereto and marked as **ANNEXURE P/6**.) The National Commission for Women also has in a detailed report raised several objections to the manner in which the Respondent has been promoting the Salwa Judum and thereby enhancing violent incidents. (A copy of the National Commission for Women Report on their Visit to Dantewara is annexed hereto and marked as **ANNEXURE P/7**)
- (c) These reports make it plain that though the Government does not accept responsibility for the actions of the 'Salwa Judum' activists, it assures them full state protection and grants them impunity to operate as an extra-legal authority within the district. In fact, the attitude of the Respondent vis-à-vis the Salwa Judum has been patently contradictory. While it is said that the Salwa Judum is an independent spontaneous people's movement, referred to as "a

Gandhian movement initiated by the indigenous people of Bastar..”, other statements made by the authorities imply a deep and pervasive government involvement in this so-called people’s initiative. (Relevant newspapers in this regard are annexed hereto and marked as **ANNEXURE P/8 (Colly)**)

- (d) In frequent raids on villages carried out jointly by the ‘Salwa Judum’ activists and the security forces, suspected Naxalite sympathizers (sangham members) are arbitrarily identified and then beaten and brutally killed; their houses torched, and livestock looted. In several instances, the raids continue till the entire village is cleared and all the villagers are compelled to move into Salwa Judum camps.
- (e) Far from being a peaceful campaign, ‘Salwa Judum’ activists are armed with guns, lathis, bows and arrows. Upto January 2007, 4048 Special Police Officers (SPOs) had been appointed by the Government under the Chhattisgarh Police Regulations. They actively participate in the ‘Salwa Judum’ movement and are given military and weapon training by the security forces. These gun wielding SPOs are, however, mostly unemployed tribal youth and minors. The appointment of minors by the Government as SPOs, is per se a flagrant violation of Article 39 (e) and (f), violative of the statutory embargo of employing child labour in hazardous activities under the Child Labour (Prohibition and Regulation) Act, 1986 apart from being blatantly violative of international conventions such as the UN Convention on the Rights of the Child and Child Rights Convention. (Some photographs revealing the tender age and the arms borne by the SPOs are annexed hereto and marked as **ANNEXURE P/9**).

- (f) These armed 'Salwa Judum' activists have also been known to be involved in illegal checking of all vehicles passing through their area and levying illegal taxes on occupants of the vehicles. There have also been reports of these activists looting the occupants of vehicles who refuse to pay their illegal tax.
- (g) There is a complete breakdown of the civil administration and the rule of law in Dantewara district and 'Salwa Judum' activists have become vigilantes who assert the right to control, intimidate and punish anyone they consider to be a suspected Naxalite.
- (h) The 'Salwa Judum' movement has only intensified the conflict. According to Respondent's own figures, there has been a sharp upswing in the number of people killed by the Naxalites since the Salwa Judum campaign began. According to the Chhattisgarh Home Minister, 676 people have been killed in the past two years, i.e. since the 'Salwa Judum' movement was initiated. (A tabulation of the number of killings by the Naxalites from 1968-2007 is annexed hereto and listed as **ANNEXURE P/10**). Independent individuals and groups have provided their own, partial, list of people killed by the Salwa Judum and by the Naxalites. Some of these names corroborate the government and Naxalite lists. (A list of people killed, compiled on the basis of independent enquiries, as well as some newspaper articles indicating killings by the Salwa Judum and security forces are annexed hereto and listed as **ANNEXURE P/11**). The policy of giving rewards for killing Naxalites has the potential for creating false encounters. (A copy of national newspaper indicating this policy is annexed hereto and listed as **ANNEXURE P/12**).

- (i) It remains a disturbing phenomenon that the police and security forces are illegally detaining people suspected of being Naxalites or their sympathizers without recourse to Article 22 of the Constitution of India or the directions of this Hon'ble Court in relation to the arrest of an accused in *DK Basu v. State of West Bengal* (1997) 1 SCC 416. More shockingly, the brutal atrocities and even killings committed by the 'Salwa Judum' activists and security forces go unrecorded since the police refuse to register First Information Reports (FIRs) in relation to such atrocities though under a statutory obligation to register an FIR under Section 154 of the Criminal Procedure Code, 1973. Similarly, the police have not maintained an official record of cases of sexual violence though there have been reports of extreme sexual violence against women, including rape, gang-rape, maiming and beating. (Some of the photographs revealing the killings and arson by Salwa Judum and violence against women are annexed hereto and marked as **ANNEXURE P/13**). In fact, the Respondent appears to be promoting fake surrenders as part of its propaganda war to show that people are voluntarily surrendering to the Salwa Judum activists. (A copy of a newspaper report indicative of this is annexed hereto and marked as **ANNEXURE P/14**).
- (j) The Government has set up relief camps in Dantewara for all those villagers who have had to vacate their homes, as a consequence of the 'Salwa Judum' campaign. Uptil January 2007, out of the 1354 villages in Dantewara district, a total of 47,238 villagers from 644 villages have been compelled to leave their homes and are living as Internally Displaced Persons (IDPs) within these relief camps. (Two lists of relief camps and the number of inhabitants, including SPOs, signed by the Collector of Dantewara dated March 2006, and January 2007 are annexed hereto and marked **ANNEXURE P/15**)

- (k) Most of the IDPs are ordinary villagers who have been coerced by the 'Salwa Judum' activists to leave their villages and live in these relief camps. Their daily lives have been uprooted and their livelihoods destroyed due to the ongoing evacuation of these villages. In many cases, their fields have been left uncultivated for two years, and their animals, which are their most precious assets, have either been consumed, died, or strayed away.
- (l) The conditions in these camps is deplorable and sub-human, and continues to be so in the newer camps like Maraigudem. (Some of the photographs revealing the conditions in these camps are annexed hereto and marked as **ANNEXURE P/16**). According to a January 2007 report of the Collector, 6369 permanent houses are being built at 32 places for those who wish to stay in the camps, and 6001 tin roofed barracks have been constructed for those who wish to return home after the situation becomes peaceful. However, there is no long term planning for livelihood and as the National Commission for Women Report points out "the camp dwellers are either on dole or depend for whatever work they get on the Government." Nutrition, especially child nutrition, has been badly affected with inmates of these camps receiving scant rations. Medical facilities remain scarce, forcing independent international organizations like Medicin Sans Frontiers (MSF) to take up medical relief work.
- (m) There is an acute lack of security since these camps are set up along the roadside and are vulnerable to retaliatory attacks by the Naxalites. The attack on Rani Bodli on March 15 2007 in which 55 people, including 38 SPOs were killed, and the attack before that on

Errabor camp on 17 July 2006 in which 37 people were killed are illustrative.

- (n) Regular government services, such as school teachers, health workers and anganwadi workers, have been suspended in villages which have not joined the Salwa Judum movement. This is in keeping with the Collector's proposal to reward villages, which join the Salwa Judum with development facilities and punish the others, including by suspending panchayat funds.
- (o) Since several government schools have been converted into camps for security forces, or have been converted into Salwa Judum camps, the education of children in the district is nearly at a standstill. In 2006, all the children of Dantewara district were routinely promoted to the next class without any teaching. In Maraigudem and Konda camps, teachers from the regrouped schools reported that several hundred students are missing, having fled with their parents to the forests or neighbouring states to avoid the Salwa Judum. In some cases, children have been separated from their parents. (One such newspaper report by a national newspaper is annexed hereto and marked as **ANNEXURE P/17**)
- (p) There has been a chilling encounter recently in Santoshpur village in which 7 villagers, suspected to be Naxalite sympathizers, were picked up by Salwa Judum activists and security forces and killed. Shockingly, no FIR has been lodged till date, nor have the killings been publicized or reported in the local media. The number of those killed is also in dispute (Some of the relevant newspaper clippings in regard to the Santoshpur incident are annexed hereto and marked as **ANNEXURE P/18**)

GROUND

- I. For that there is large scale forced internal displacement arising out of the frequent raids on villages carried out jointly by the 'Salwa Judum' activists and the security forces. In these raids, alleged Naxalite supporters are beaten and brutally killed; their houses torched, and livestock looted. Even those who have no connection with the Naxalites are threatened, sometimes killed, and their houses burnt. In several instances, the raids continue till the entire village is cleared and all the villagers are compelled to move into relief camps. This blatantly violates the villagers' fundamental rights under Articles 14 and 21 since they are denied arbitrarily the right to live life with dignity and security.

- II. For that the appointment of minors by the Respondent as SPOs, is per se a flagrant violation of the constitutional directive principles enshrined in Article 39 (e) and (f); violative of the statutory embargo of employing child labour in hazardous activities under the Child Labour (Prohibition and Regulation) Act, 1986 apart from being grossly violative of international conventions such as the UN Convention on the Rights of the Child and Child Rights Convention.

- III. For that the provision for the appointment of SPOs provides no justification to the Respondent to actively promote the sustained campaign of militarisation of innocent tribal youth.

- IV. For that the maintenance of law and order, provision of security to the citizens and maintenance of public security is

a sovereign function of the government and this power cannot be delegated upon the innocent people who are themselves in requirement of protection.

- V. For that the police and security forces are illegally detaining people suspected of being Naxalites or their sympathizers without recourse to Article 22 of the Constitution of India or the directions of the Hon'ble Supreme Court in relation to the arrest of an accused in *D.K.Basu v. State of West Bengal* (1997) 1 SCC 416.

- VI. For that the brutal atrocities and even killings committed by the 'Salwa Judum' activists and security forces go unrecorded since the police refuse to register First Information Reports (FIRs) in relation to such atrocities though under a statutory obligation to register an FIR under Section 154 of the Criminal Procedure Code, 1973. Similarly, the police have not maintained an official record of cases of sexual violence though there have been reports of extreme sexual violence against women, including rape, gang-rape, maiming and beating.

- VII. For that most of the Internally Displaced Persons are ordinary villagers who have been forced by the 'Salwa Judum' activists to leave their villages and live in these relief camps. Their daily lives have been uprooted and their livelihoods destroyed due to the ongoing evacuation of these villages. This is a gross violation of their fundamental rights under Articles 14, 19 (1) (d), (e), (g) and Article 21.

- VIII. For that the conditions in these camps are deplorable and sub-human. Nutrition has been badly affected with inmates of these camps receiving scant rations. Medical facilities remain poor. There is also an acute lack of security since these camps are set up along the roadside making retaliatory attacks by the Naxalites inevitable. This is in blatant disregard of the villagers' fundamental rights under Article 14 and 21.
- IX. For that several government schools have been converted into camps for the security forces and are destroyed by the Naxalites for this reason, therefore, there are few educational facilities for the children of the affected villages, which blatantly disregards their fundamental right to education under Part III of the Constitution.
- X. For that the armed 'Salwa Judum' activists have also been known to be involved in illegal checking of all vehicles passing through their area and levying illegal taxes on occupants of the vehicles. There have also been reports of these activists looting the occupants of vehicles who refuse to pay the illegal tax. Security forces are also misbehaving with the local population.
- XI. For that there is a complete breakdown of the civil administration and the rule of law in Dantewara district and 'Salwa Judum' activists have become vigilantes who assert the right to control, intimidate and punish anyone they consider to be a suspected Naxalite.

XII. For that the affected region falls within the Schedule V to the Constitution, which is mostly populated by scheduled tribes, whose interests the Constitution protects as of paramount importance. Their entire culture, way of life and social fabric has been destroyed; villages and even families have been divided against each other.

XIII. For that there has been a chilling encounter recently in Santoshpur village in which 7 villagers, suspected to be Naxalite sympathizers, were picked up by Salwa Judum activists and security forces and killed. Shockingly, no FIR has been lodged till date, nor has the killings been publicized or reported in the local media.

6. That the petitioner has not filed any other petition seeking similar relief before any other court in India including this Hon'ble Court.

PRAYER

In the circumstances, it is, therefore, most respectfully prayed that this Hon'ble Court may graciously be pleased to:

(a) Direct the Respondent to refrain from supporting, associating, encouraging or promoting, in any manner whatsoever, the activities of the 'Salwa Judum' movement.

(b) Direct an independent and impartial enquiry under the aegis of the Supreme Court into the incidents of killings, abductions, rapes, arson and gross violation of human rights by the security forces and the

'Salwa Judum' activists, in endeavouring to counter the Naxalites from Dantewara district of State of Chattisgarh, as well as investigate the killings by the Naxalites;

- (c) Direct the registration of FIRs and the prosecution of those implicated by such independent and impartial enquiry in accordance with law;
- (d) Direct the Respondent to give compensation to all those who have suffered from destruction of property, killing of relatives, rape and other abuses by the Salwa Judum activists at par with the compensation given to victims of Naxalite violence;
- (e) Direct the Respondent to effectively rehabilitate those who wish to return to their own villages;
- (f) Direct the Respondent not to appoint minors as Special Police Officers (SPOs) nor allow them to participate in any manner with the 'Salwa Judum' movement; and
- (g) Pass any other order or further orders as may be deemed fit and proper in the circumstances of the case.

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

DRAWN BY

FILED BY

ASHISH CHUGH
R NITIN
ADVOCATES

MANIK KARANJAWALA
(ADVOCATE FOR THE PETITIONER)

DRAWN ON : 7.5.2007
FILED ON :