

IN THE HIGH COURT OF DELHI, AT NEW DELHI

WRIT PETITION (CIVIL) NO. _____/2018

PETITION IN PUBLIC INTEREST UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA

MEMO OF PARTIES

ASSOCIATION OF THE VICTIMS OF UPHAAR TRAGEDY
E-335, GROUND FLOOR, EAST OF KAILASH,
NEW DELHI - 110065

...PETITIONER

VERSUS

1. GOVERNMENT OF NCT OF DELHI
Through Its Chief Secretary
DELHI SECRETARIAT, I.P. ESTATE
NEW DELHI-110113

2. DELHI FIRE SERVICES
THROUGH ITS DIRECTOR
CONNAUGHT PLACE – NEW DELHI
110001

...RESPONDENTS

THROUGH

KARAN KHANUJA
ADVOCATE

R-62, GREATER KAILASH -1
NEW DELHI – 110048- INDIA
MOBILE - 9999716518
EMAIL: advkarankhanuja@gmail.com

IN THE HIGH COURT OF DELHI AT NEW DELHI

WRIT PETITION (CIVIL) NO. _____/2018

PETITION IN PUBLIC INTEREST UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF APPROPRIATE WRIT, ORDER OR DIRECTIONS TO THE RESPONDENTS FOR FILLING UP THE VACANCIES IN THE DELHI FIRE SERVICES AND INTRODUCING EMERGENCY MONITORING SYSTEM IN DELHI LIKE SAFE GOA 24/7.

IN THE MATTER OF

ASSOCIATION OF THE VICTIMS OF UPHAAR TRAGEDY ...PETITIONER

VERSUS

GOVERNMENT OF NCT OF DELHI&ANR ...RESPONDENTS.

TO,
HON'BLE THE CHIEF JUSTICE AND HER COMPANION JUDGES OF THE
HON'BLE HIGH COURT OF DELHI

THE HUMBLE PETITION OF THE PETITIONER ABOVE NAMED

MOST RESPECTFULLY SHOWETH:

1. The Petitioner Association of the Victims of Uphaar Tragedy ("AVUT") through its General Secretary Mr. R. Krishnamoorthy is filing the instant writ petition in public interest. He has been authorized by AVUT to file the instant petition vide authorization letter dated 19.05.2018. The Petitioner has no personal interest in the litigation and is not guided by self-gain or for the gain of every person/instant/body and that there is no motive other than of public interest in filing the instant writ petition. The Petitioner is invoking Article 226 of the Constitution of India and this Hon'ble Court's original jurisdiction to seek issuance of appropriate writs and/or directions against the Respondent to ensure compliance with the mandate of the law and to further the larger public interest. Copy of the Authorization Letter dated 19.05.2018 is annexed herewith as **Annexure A1**.

2. The Petitioner has based the instant writ petition on official documents, which are part of the official record, and information available in the public domain.
3. That the Petition if allowed would benefit the citizens of NCT of Delhi. Though every citizen has direct personal interest in the matter but is unlikely to approach this Hon'ble Court. Hence the Petitioner herein is preferring this Public Interest Litigation.
4. That about 21 years back on 13.06.1997 the horrific and infamous incident of fire occurred at Uphaar Cinema Green Park, New Delhi, while the matinee show of film "Border" was being screened. The transformer of Delhi Vidyut Board sparked a fire, which ignited an illegally parked car next to it. The fire soon engulfed several other cars in the parking lot. The noxious and poisonous fumes funneled towards the balcony. The smoke and carbon monoxide engulfed the balcony, the patrons began to suffocate and there was complete chaos. The panic stricken patrons including women and children in the balcony tried to rush out to safety. The darkness caused by the power failure, non-availability of exit and the gangway on the right hand side, non-availability of fire safety norms i.e. Emergency Light, Public Address System, Fire Extinguishers, foot lights & Exit Lights resulted in death of 59 patrons due to asphyxia and injuries to over 100 patrons sitting in the balcony.
5. Thereafter, the Association of the Victims of Uphaar Tragedy (AVUT) was formed on 30th, June 1997 in the aftermath of the worst man-made tragedy that struck Delhi on June 13th 1997 at Uphaar cinema. The tragedy, which resulted in the loss of 59 innocent lives, brought 28 families together not only to share their grief but also to ensure that such a tragedy never happens again.
6. Since then AVUT has been organizing Seminars, Panel Discussions, Inter School Debates and Blood Donations Camps in order to create an awareness of value for human lives, amongst the Government, administration and also the public at large. AVUT also works towards

ensuring enforceability and respect for the most basic laws governing the safety and survival of each and every citizen of India. AVUT has also come out with Fire Safety Tips which are being distributed and plans to cover Educational Institutions, an initiative towards Fire Safety. It stands committed to working towards creating a safer India, where no Uphaar like tragedies will be allowed to take place. Copy of the Fire Safety Tip circulated among the Delhi Citizens is annexed herewith as **Annexure A2**.

7. The main aims & objectives of the Association are:

- i. To undertake to make representations to the Central and/or State Government or other authorities for redressal of social and socio economic grievances of the victims of Uphaar tragedy, and similar tragedies that may occur in future.
- ii. To initiate appropriate court proceedings to redress the grievances of victims of Uphaar tragedy, and vow to fight for justice and to take the proceedings to their logical conclusion.
- iii. To expose all officials working under the control of any Government/Semi Government bodies or other authorities whose negligence and dereliction of duties or any act of omission or commission leads to such mishaps.
- iv. To take such measures, as are required under the law to be able to fulfil the above obligation and ameliorate the sufferings of the people.
- v. To augment Central Accident & Trauma services and to set up emergency services with well-equipped ambulances to be able to respond in case the need arises, and launch effective and capable rescue measures by taking the victims to the hospitals.
- vi. To create public awareness of the criminal negligence on the part of public authorities and owners and occupiers of the cinema hall.
- vii. To impart a culture of respect for safety laws among public authorities as well as owners and occupiers of public building.
- viii. To ensure speedy and impartial investigations into lapses in the field of safety laws.
- ix. To adopt suitable measures for promoting expeditious trial of offenders found violating the safety laws.

8. That after the tragic incident Naresh Kumar committee was formed under the directions of the Lt Governor, Delhi on 14th June vide order No. F.P.A/JS(H)/GNCTD/97/147 which also made certain recommendations to the Delhi Fire Services which are summed up by this Hon'ble Court in the matter of Assn. of the Victim of Uphaar Tragedy v. Union of India 104 (2003) DLT 234 as follows in Para 102 :

.....3. The upkeeping and maintenance of the fire vehicles is in a very bad shape. Even small things which matter a lot in affecting the response time of the fire service i.e. the siren, emergency lights are not in working condition. Therefore the system of regular inspection of the fire stations of the DFS should be introduced to check the preparedness of the men and machines of DFS by appropriate level officer of Home Department/District Administration...

6. High rise buildings which have become a common feature of modern society present inherent fire hazards as fire brigades are often helpless in the face of fires in such structures and are unable to save human lives and fight fires effectively with traditional methods. Therefore, there is need for overall up-gradation of Delhi Fire Service with respect to modern equipment's, communication facilities including voice recorder, increased manpower and training to fire personnel.

But it seems that these recommendations have not been acted upon and they exist only on paper. Further, adding to the misery, what will be the benefit of high-end equipment's if you don't have manpower to operate it.

9. That even after a lapse of 21 years of the tragic incident, the situation with regard to Fire Safety in Delhi has not improved at all but has further deteriorated. In 21 years the situation with regard to fire safety ought to have improved but on the contrary it has deteriorated. The Delhi Fire Services is facing manpower crunch to an extent of 45.29% of its total prescribed strength.

10. The Comptroller and Auditor General (“CAG”) has conducted a comprehensive study on the Social, Social General and Economic Sector (Non-Public Sector Undertaking) and has submitted a comprehensive report for the year ending as on 31 March 2015. The report of Comptroller of Auditor General of India (CAG) pertaining to performance audit on Delhi Fire Services has exposed the preparedness of the Capital of the Country in case of any major fire. The CAG has found several loopholes in the functioning of Delhi Fire Service. The five-year audit of the premier fire service of the country has shown that in case of fire emergency, fire service is not only ill equipped but also well short of staff. Copy of the CAG Report is annexed herewith as **Annexure A3**.
11. In Para 2.2.4.2 CAG has dealt with shortage of Vehicles and equipment’s.
- a) As per Standing Fire Advisory Council (SFAC) norms, each fire station should be equipped with one pumping unit. The number of pumping units is to be increased at the rate of one unit for every 50,000 persons and six for three lakh population. For population of three lakh and upwards, there should be one additional pumping unit per lakh of population or fraction thereof, with a reserve of 20 per cent of total pumping units. Fire station serving a population greater than three lakh, should have one Rescue Van (RV) and an additional RV for every 10 lakh persons. As per the census of 2011, the total population of NCT of Delhi was 167.88 lakh. For this population, number of pumping units required is 205 (171 plus 34 in reserve).*
12. The Audit also observed that as on 31 March 2015, there were only 160 pumping units available. Out of these, 31 were out of order as on 31 March 2015. Thus, only 129 pumping units were actually available with a shortage of 20 per cent. Further, DFS had only six RVs against 18 RVs required as per prescribed norms.
13. Delhi Fire Services has a total of six BrontoSkylifts to be used in the incident of fire at different heights (maximum height 70 meters or 220 feet), six Turntable Ladders (TTLs), two Simon Super Snorkels and three Hazzmat Vans on its inventory. Out of these, three Brontos, all six of TTLs, two Simon Super Snorkels were out of operation as of December 2015.

14. Out of the above six BrontoSkylifts, DFS had procured a 70 metre Aerial Ladder Platform (BrontoSkylift) in the year 2014-15 for fighting fire incidents at a height of approximately 220 feet. However, NCT of Delhi also has buildings with height more than 220 feet, e.g. Civic Centre (335 feet), Grand Inter Continental (Hotel TheLalit) (328 feet) and Palika Kendra (299 feet). Thus, DFS did not have any firefighting equipment to tackle the incidents of fire occurring at a height of more than 220 feet, as it has a BrontoSkylift, which can reach to a maximum height of 220 feet only.
15. Thus, DFS was not adequately equipped with fire fighting vehicles and other equipment, thereby, undermining its firefighting ability. DFS accepted the observation (February 2016) and intimated that more such appliances and equipment would be added.
16. In Para 2.2.4.5 the report deals with Shortage of Staff. SFAC norms provide that one station/sub-officer, two leading firemen, two drivers/operators and 10 firemen will be required at a fire station with 50 per cent reserve of station officer and sub-officers. In respect of remaining staff, DFS has to keep a reserve of 10 to 25 per cent. These norms further provide that Home Guards could be deployed as Auxiliary Firemen in emergency.
17. Availability of adequate field staff is imperative for the operational efficiency of the DFS. Despite recommendations of SFAC for deployment of Home Guards or creation of Voluntary Firemen, DFS had not deployed Home Guards as Auxiliary Firemen or Volunteer Firemen.
18. The position of sanctioned strength and men-in-position of staff in DFS.

S.No.	Category of Staff	Sanctioned	In Position	Vacant	Shortage (Percentage)
1	Senior Officers	44	39	5	11.36
2	Operational Staff	3375	1911	1464	43.37
3	Workshop	85	43	42	49.41

	Staff (Auto wireless & General				
4.	Administration /Accounts Staff	115	84	31	26.95
	Total	3619	2077	1542	42.61

The above data shows a shortage of 43.37 *per cent* in operational staff and 49 *per cent* in auto staff. Overall, there was a staff shortage of 42.61 *per cent* in DFS.

19. The Conclusion arrived by CAG shows that planning and preparedness for fire prevention undertaken and achieved by DFS was not commensurate with the size and complexity of a megacity like Delhi. DFS was suffering from shortages of resources too, particularly of operational staff and fire tenders/bousers. Available Communication equipment were inadequate and outdated, hampering the performance of DFS. Thereafter, certain recommendations were given by CAG which were:

- Prepare a comprehensive database of area, population and risk-hazards;*
- (ii) Monitor issue and renewal of Fire Safety certificates;*
- (iii) Expedite establishment of new fire stations and acquisition and upgradation of the required fire vehicles and equipment including communication facilities commensurate with the needs of Delhi;*
- (iv) Conduct regular appraisals to ensure compliance with fire safety standards in buildings; and*
- (v) Take steps to improve response time to bring it within the norms as recommended by the Standing Fire Advisory Council.*

We believe that these recommendations have not been followed and they also exist only on papers.

20. Where there is manpower crunch in the Fire Service department to an extent of almost 45.29% the fire incidents in Delhi are rising at an alarming rate. A recent article reported in HT Metro on 31.05.2018 titled “FIRE

CASES RISE BY 30% in FIVE YEARS”, states that the number of calls received by the by the Fire Department has increased by 30%. On the basis of the data assessed by Hindustan Times clearly shows that between March 2017 – March 2018, there were 318 deaths because of fire, while during the same period, previous year the figure was 277. Copy of the News Report dated 31.05.2018 is annexed as **ANNEXURE A4**.

21. An application under the RTI Act was filed to Delhi Fire Service was filed on 05.04.2018 by Sh. JatinAnandw.r.t. (i) Total Sanctioned strength of the Delhi Fire Services; (ii) Actual Position of the Delhi Fire Services; (iii) Vacant number of posts; and (iv) Reason behind non-filling of the posts. The Delhi Fire Service on 07.05.2018 provided the information.. The data received is shocking as there is 45.29 % firefighting manpower gap in Delhi Fire Services.The total sanctioned manpower for the Delhi Fire Services across various departments is 3623 of which a total number of 1641 posts are lying vacant and awaiting both promotional and direct recruitment. Copy of RTI reply dated 07.05.2018 is annexed herewith as **ANNEXURE A5**. Since 2017 the situation in the fire services department has comparatively deteriorated. In 2017 the total sanctioned manpower for the Delhi Fire Services across various departments was 3623 of which 1572 posts were lying vacant. Copy of the RTI dated 16.03.2017filed by Aditya N Prasadis annexed herewith as **ANNEXURE A6**.

22. Below is the chart showing the important post lying vacant in Delhi Fire Services Department as per RTI dated 07.05.2018:

SNO.	POST	VACANCIES
1.	Firemen/ Operator	1251
2.	Station Officers	55
3.	Drivers	28
4.	Leading Firemen	41
5.	Workshop Hands	25
6.	Radio/Telephone Operators	65
7.	Others	176

TOTAL	1641
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It is pertinent to mention here that the position of the vacancies in the Delhi Fire Services have not much changed since 2017. Below is the chart showing vacancies in the Delhi Fire Services Department as per RTI dated 16.03.2017:

SNO.	POST	VACANCIES
1.	Firemen/ Operator	1161
2.	Station Officers	64
3.	Drivers	27
4.	Leading Firemen	49
5.	Radio/Telephone Operators	59
6.	Others	212
TOTAL		1572

23. That in operational capacity which includes (i) Station Officer (who is the overall head of the particular station who manages and control the department); (ii) Firemen/Fire operator (who is a rescuer extensively trained in firefighting, primarily to extinguish hazardous fire that threaten life, property and the environment as well as to rescue people and animals from dangerous situations), both the posts are lying vacant to an extent of almost 50%. The Station officer sanctioned posts are 90; filled up are only 35 and vacant post 55; therefore making a crunch of almost 61% in the said post. The Firemen/Fire Operator sanctioned post is 2367; filled up are 1116 and vacant post are 1251 almost having a crunch of 52.85%.

24. The most glaring vacancies in the Delhi Fire Services exist in the communication department. The sanctioned post of the communication staff (including administration) is 133 out of which only 50 are filled and 83 are lying vacant. It is currently functioning without 62.41% of its sanctioned capacity.

25. An Article published in one of the leading news-paper of the country, The Hindu, headlined “**Delhi Fire Services In Need Of Rescue**” states that the communications unit had gradually decayed over the years with no fresh inductions to balance the retirement of the serving personnel. As per the said article Delhi Fire Service, Director G.C. Misrasaid “it has been decided to shift its communication to an outside department”. The article further stated “A senior fire officer said that the staff crunch is so severe that the fire department personnel were working 12 hour shifts followed by equal number of hours of rest. Copy of the Hindu Article is annexed herewith as **ANNEXURE A7**.”
26. The communication department is the most crucial department in any administrative department of the country. The personnel hired in the said department are well equipped with the knowledge of the department and with experience knows the gravity of any emergency situation i.e. which situation needs urgent attention and which can wait. This can only come with proper training and experience. If the role of the emergency responder is outsourced to a private party one cannot expect the same level of expertise, the sense of belongingness from a private party in comparison to a person from the organization. Hence, communication being the key to effectively respond to any emergency it should not be outsourced under any circumstance.
27. That in April 2017 Goa government issued a Safe Goa 24/7 Emergency Monitoring System wherein the Electronic Hardware (Black Box) will be installed in a building and links with the Fire Force Headquarter Control Room and the Local Fire Station Watch Room of the Goa State Fire & Emergency Services. Using remote-communication technologies such as GPRS, the system monitors the building in real time, 24x7 and continually exchanges data and information regarding the operational status (Normal, Fault & Alert) of the Fire Protection Measures installed in the premises. In the event of any fire incident a critical alarm signal is relayed from the Black Box to the Headquarter Control Room and Local Fire Station Watch Room automatically. The system also sends signal if any of the Active Fire Protection Measures is out of order. A Display Unit installed in the

Headquarters Control Room and Local Fire Station Control Room are coupled with individual operating workstations which displays the Building location, Identified Problem, important contact details and the nearest Fire Station. In addition, when the Local Fire Station acknowledges the Alarm Signal in the GUI (Graphical User Interface) the Headquarters Control Room, the Zonal Control Room can also monitor the dispatch of Fire Appliance through the GPS connectivity. The Operator manning the Control Room will respond appropriately by dispatching the Fire Fighting Appliances & Equipment's. Copy of the Goa 24/7 Emergency Monitoring System is annexed herewith as **Annexure A8**.

28. The system introduced in Goa should also be introduced in National Capital of the Country. This will provide an Effective Response plan by Monitoring & Preventing Fire, to Reduce & Minimise Loss of Life & Loss of Physical Assets thereby aiming at making Delhi Safer.
29. In similar issues like the present issue, which involve the larger public interest, various Courts and Tribunals have readily taken cognizance of the issue and granted relief.
30. In light of the aforesaid background, the Petitioner is constrained to move the present Petition in Public Interest on the following grounds, with the same being read conjunctively or disjunctively, as the case may be:-

GROUNDS

- A. BECAUSE in 1997 when the tragic incident of Uphaar cinema took place the advanced digital technology was not available. The communication system was obsolete. And now in 2018 after the great advancement in the field of information technology, the situation has not improved much. It is really shocking to note that there is an acute shortage of manpower in the Delhi Fire Service. There is a shortfall of over 62% of the employees in the Communication Department. Unfortunately, not much has changed since then. The Positions lying vacant in the Communication Department means slower dissemination of information, which will further lead to delay in responding in an emergency situation. Since time is the essence to

effectively respond to any emergency situation like fire, a delay of even of a second may lead to loss of life. Thus the issue of filling up the vacant positions in DFS is of paramount importance and is in public interest.

- B. BECAUSE the cost of filling the posts of such services, to deal with any kind of emergency in the city, will be far less than the cost of lives that would be saved. For, the loss of even one life, that could be saved, is an irreparable loss to the family, society and a moral stigma to any government, which is of the people, by the people and for the people.
- C. BECAUSE large number of positions that are lying vacant with the Delhi Fire Services is the result of the lackadaisical approach of the authorities. The authorities should ensure that the sanctioned posts should not be lying vacant in order to make Delhi a safer place.
- D. BECAUSE of shortage of manpower in the communication's department existing in the Delhi Fire Services will lead to delay in the response time. In the absence of effective communication system proper coordination between other agencies during a fire incident will be hampered.
- E. BECAUSE there can be no effective coordinated response to an emergency situation without effective communication. Time is the essence in handling any emergency situation. An ineffective communication will result in delayed response and rescue operations. Every second is precious during any tragic incident.
- F. BECAUSE the calls received by the Delhi Fire Services Department are increasing rapidly. The communication staff in the said department is short by almost 62%. Result being there can be no timely reaction to any emergency and innocent lives will be lost. As per the article in the Hindu dated 21.05.2018, below is the chart showing number of calls attended by the Delhi Fire Services over last 5 years:

Year	Number of Calls Received
2013-2014	22,726

2014-2015	23,242
2015-2016	27,089
2016-2017	30,285
2017-2018	29,423

- G. BECAUSE the Firefighters work closely with other emergency response agencies such as the police and emergency medical service. A firefighter's role may overlap with both. Firefighters also frequently provide some degree of emergency medical service. The basic tasks of firefighters include fire suppression, rescue, fire prevention, basic first aid, and investigations. Firefighting is further broken down into skills which include: size-up, extinguishing, ventilation, search and rescue, salvage, containment, mop up and overhaul. It is hence apparent that having glaring vacancies in such operational post of the Delhi Fire Services we are again raising a probability of increasing tragic incident like Uphaar to happen again which can be avoided.
- H. BECAUSE of lack of firemen in DFS, a 12 hour shift by a firemen makes him physically and psychologically tired. He will not be able to effectively do his duty since he is not having adequate rest and he is induced with stress.
- I. Because, DFS needs to strengthen its Fire Prevention Wing (inspection, awareness, and training) so that in future, fire events similar to that at Uphaar can be prevented. For this, DFS Fire Prevention Wing should carryout regular fire drills and fire-inspections, awareness and training to public personnel in schools, hospitals, high-rise buildings, cinema halls, shopping malls, govt. and private offices, institutional buildings etc.
- J. BECAUSE introducing programs like 24/7 Safe Goa Emergency Monitoring System in Delhi will provide an effective response plan by monitoring and preventing fire, which will reduce loss of lives and physical assets thereby aiming at making Delhi Safer.
- K. BECAUSE population in the NCT of Delhi is increasing at an alarming rate, unauthorized colonies have mushroomed, number of high-rise buildings have increased and so has the number of vehicles which are moving from

liquid to gas. In such rapid changing scenario manpower crunch in the fire department will hamper the response and the rescue operations immensely in case of fire incident.

L. BECAUSE the deficiency in the manpower will result in overall effective functioning of the Delhi Fire Services Department. The Department cannot discharge its statutory duties and effectively implement the provisions of Fire Safety Laws.

M. BECAUSE any delay in enhancement of the strength of the Delhi Fire Services Department may result in a major catastrophe.

31. The present Petition raises important issues of public importance and ought to be adjudicated by this Hon'ble Court.

32. The Petitioner does not have an equally efficacious or alternative remedy to raise the issue as put forth in the present Petition.

33. The Petitioner has not approached any other court of law with the issues raised in the present Petition.

34. The Petitioner craves leave and liberty of this Hon'ble Court to file additional documents germane to the issues at hand as and when they become available to the Petitioner.

PRAYER

In light of the aforementioned facts and circumstances of the case, this Hon'ble Court may be pleased to: -

A. Issue Writ/Order or Direction in the nature of Mandamus to Respondent No.1 to fill up the vacant posts in Delhi Fire Services forthwith; and

B. Issue Writ/Order or Direction to Respondent No. 1 to introduce programs like Safe Goa 24/7- Emergency Monitoring System in Delhi; and/or

C. Pass any other orders that this Hon'ble Court deems to be fit and proper in the public interest.

AND FOR THIS ACT OF KINDNESS, THE PETITIONER AS IN DUTY
BOUND SHALL EVER BE GRATEFUL.

PETITIONER
AVUT

THROUGH

KARAN KHANUJA
ADVOCATE
R-62, GREATER KAILASH – 1
New Delhi – 110048- INDIA
MOBILE – 9999716518

NEW Delhi

Dated -