

DALAI LAMA & Samdong Rimpoche HAS TO APPEAR IN DELHI HIGH COURT. THEY ARE ACCUSED FOR SEVERAL POINTS WHICH YOU CAN FIND UNDER A,B,C,D.

The petition was launched by HH. the 13th Kundeling Rimpoche, Spiritual Head of the Atisha Mahayana/Vajrayana centres, worldwide and Founder and President of the Atisha Charitable Trust and Head of the Kundeling Monastery, Mysore, India in name of the Dorje Shugden Society, Delhi. India you find the numbers 1,2,3 and 4.

nr. 1 is Dorje Shugden Society, New Delhi, India
nr. 2 is Kundeling Rimpoche, Mysore, India.
nr. 3 is Samdong Rimpoche, minister tibetan parlement in exile, Dharamsala, India
nr.4 is the Dalai Lama.

it should be good if every one can copy it and send it to their respective newspaper, local and national.

Sumati Arya

IN THE HIGH COURT OF DELHI AT NEW DELHI

(EXTRAORDINARY CIVIL WRIT JURISDICTION)

WRIT PETITION (CIVIL) NO. 2222 OF 2008

IN THE MATTER OF:

Dorjee Shugden Devotees

Charitable and Religious Society
...Petitioner

Versus

Union of India and Others
...Respondents

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Petitioner

Through Counsel:

Jayant Tripathi & Abhik Mazumdar

Advocates

A-2/77, Safdarjang Enclave

New Delhi 110 029

Place: New Delhi

Dated:

IN THE HIGH COURT OF DELHI AT NEW DELHI
(EXTRAORDINARY CIVIL WRIT JURISDICTION)

C.M.P. No. _____ OF

IN

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URGENCY APPLICATION

The Registrar

Delhi High Court

New Delhi

Sir,

Kindly treat the accompanying Application as URGENT in accordance with the Rules of the Hon'ble Court, and have the case listed for hearing before the Hon'ble Court on 08.04.2008, the date already fixed.

The grounds of urgency are that the amendment of the Petition is required to bring the Petition in line with the amendment of the Memo of Parties, which has been already applied for. .

A copy of the Application has been supplied to the counsel for the Respondent.

Thanking you,

Yours faithfully

Jayant Tripathi & Abhik Mazumdar

Counsel for the Petitioner

A-2/77, Safdarjang Enclave

New Delhi 110 029

Place: New Delhi

Dated:

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NOTICE OF MOTION

1. The Standing Counsel for the Union of India
Through the Litigation Branch, Delhi High Court

Sir/Madam

Kindly Take Notice that the accompanying Application is being filed today and is likely to be listed before the Hon'ble Court on 08.04.2008, i.e., the date already fixed.

A copy of the application is being supplied to you herewith.

Kindly make it convenient to be present in Court at the time that the case is taken up for hearing.

Thanking you,

Yours faithfully

Jayant Tripathi & Abhik Mazumdar

Counsel for the Petitioner

A-2/77, Safdarjang Enclave

New Delhi 110 029

Place: New Delhi

Dated:

IN THE HIGH COURT OF DELHI AT NEW DELHI
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WRIT PETITION (CIVIL) NO. 2222 OF 2008

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APPLICATION UNDER SECTION 151 OF THE CODE OF CIVIL PROCEDURE
READ WITH ORDER VI RULE 17, CPC, FOR AMENDMENT OF MEMO OF
PARTIES

MOST RESPETFULLY SHOWETH:

1. That the captioned case was taken up for hearing on 19.03.2008, on which day this Hon'ble Court was pleased to make certain observations which necessitate an amendment to the Memo of Parties in the present Petition. Subsequent thereto, the Petitioner has already moved an application being I.A. No. _____ of 2008 for the amendment in the Memo of Parties.
2. That the said amendments sought to carried out follow from the addition of Kundeling Rimpoche, son of Jamyang Samten aged around 49 years, resident of 1366, Vishamanava Double Road, Kuvempunagar, Mysore 570023 as Petitioner No. 2. The said Kundeling Rimpoche is already a signatory to the Petition, in his capacity as the authorised signatory of the Dorje Shugden Devotees Religious and Charitable Society, which was the earlier sole Petitioner, and is now designated as the Petitioner No. 1 in the amended Petition.
3. Consequent to the proposed addition of the said Petitioner No. 2 in the Memo of Parties, the following amendments are further necessitated in the main body of the Petition, which are described as under:
 - A. All references to "Petitioner" or the "Petitioner Society" in the unamended Petition are required to be changed to read as "Petitioner No. 1"
 - B. Addition of the following line at the end of Paragraph 1 of the Petition:

"The Petitioner No. 2, Kundeling Rimpoche, is a citizen of India and a practicing Buddhist, who worships the deity, Dorje Shugden, and is

aggrieved by the attempts of the Respondent No.s 2 and 4 to demonise, denigrate and besmirch Lord Dorje Shugden.. The Kundeling Rimpoche is a reincarnate Lama, and the current Kundeling Rimpoche is the 13th re-incarnation. The first Kundeling Rimpoche was a contemporary of the 1st Dalai Lama. The Kundeling Rimpoche believes in the freedom of worship as guaranteed by the Indian Constitution, and is opposed to the ban on the worship of Dorje Shugden, as being illegal and unconstitutional. The rights of the Petitioner No. 2, as enshrined in and guaranteed by the Constitution, are adversely affected by the acts and utterances of the Respondent No.s 3 and 4"

C. Addition of the following words at the end of Paragraph 5 (iii): -

“and those of Petitioner No. 2?”

D. Addition of the following words at the end of Paragraph 5 (iv): -

“and those of Petitioner No. 2?”

E. Addition of the following words at the end of Paragraph 21: -

“such as the Petitioner No. 2”

F. Addition of the following words in paragraph 23 after the words “Indian citizens”:

“such as the Petitioner No. 2, ”

G. Addition of the following words in Ground A at paragraph 34, after the words “Dorje Shugden”:

“including the Petitioner No. 2”

H. Change of the words “Petitioner has”, as occurring in Paragraphs 35 and 37 to read as “Petitioners have”.

I. Addition of the following words in Prayer A at paragraph 39, after the words "Dorje Shugden":

"including the Petitioner No. 2,"

J. Addition of the following words in Prayer B at paragraph 39, after the words "Dorje Shugden":

"including the Petitioner No. 2,"

4. That as is evident from the above, the changes and amendments sought in the Petition are secretarial in nature, and arise purely out of the inclusion of Petitioner No. 2 in the Memo of Parties. The character, spirit and essence of the Petition remain unchanged.

5. That it is further submitted that the changes and amendment, if not allowed will cause undue hardship to the Petitioners, and other persons worshipping Dorje Shugden, and as such their illegal and unconstitutional harassment will continue.

6. That in the circumstances set out herein above, it is most respectfully prayed that this Hon'ble Court be graciously pleased to:-

A. Pass an order permitting the Petitioner to file the Amended Petition, and to take the same on record, and after permitting the inclusion of Petitioner No. 2, permit the consequent amendments as set out herein above;

B. Pass such other and further orders as may be required just and proper in the facts of the case.

Petitioner

Through Counsel:

Jayant Tripathi & Abhik Mazumdar

Advocates

A-2/77, Safdarjang Enclave

New Delhi 110 029

Place: New Delhi

Dated:

IN THE HIGH COURT OF DELHI AT NEW DELHI

(EXTRAORDINARY CIVIL WRIT JURISDICTION)

C.M.P. NO. _____ OF 2008

IN

WRIT PETITION (CIVIL) NO. 2222 OF 2008

IN THE MATTER OF:

Dorjee Shugden Devotees

Charitable and Religious Society

...Petitioner

Versus

Union of India and Others

...Respondents

AFFIDAVIT

I, Kundeling Rimpoche, son of Jamyang Samten, aged around 49 years, resident of 1366 Vishwamanava Double Road, Kuvempunagar, Mysore 570023 do hereby solemnly affirm and state on oath as under: -

1. That I am the Authorised Representative of the Petitioner Society, and am duly empowered and authorized to swear the present affidavit.
2. That I have gone through the contents of the accompanying Application that has been drafted by counsel upon my instructions, and have understood the contents thereof, which are true to the best of my knowledge, as derived from the records maintained by the Petitioner Society. No part of it is false and nothing material has been concealed therefrom.

DEPONENT

VERIFICATION

Verified at Mysore on this the _____ day of April 2008 that the contents of the above affidavit are true to my personal knowledge. No part of it is false and nothing material has been concealed therefrom.

DEPONENT

IN THE HIGH COURT OF DELHI AT NEW DELHI

(EXTRAORDINARY CIVIL WRIT JURISDICTION)

WRIT PETITION (CIVIL) NO. 2222 OF 2008

IN THE MATTER OF:

Dorjee Shugden Devotees

Charitable and Religious Society & Anr.
...Petitioners

Versus

Union of India and Others
...Respondents

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

To

Hon'ble the Chief Justice and

His Companion Judges of the

Hon'ble High Court of Delhi

This Humble Petition Of

The Petitioner Abovenamed

MOST RESPECTFULLY SHOWETH

1. That the Petitioner No. 1 is a Society registered with the Registrar of Societies, Delhi under the provisions of the Societies Registration Act, 1860, having it's registered office in Delhi. The Petitioner No. 2, Kundeling Rimpoche, is a citizen of India and a practicing Buddhist, who worships the deity, Dorje Shugden, and is aggrieved by the attempts of the Respondent No.s 2 and 4 to demonise, denigrate and besmirch Lord Dorje Shugden..

The Kundeling Rimpoche is a reincarnate Lama, and the current Kundeling Rimpoche is the 13th re-incarnation. The first Kundeling Rimpoche was a contemporary of the 1st Dalai Lama. The Kundeling Rimpoche believes in the freedom of worship as guaranteed by the Indian Constitution, and is opposed to the ban on the worship of Dorje Shugden, as being illegal and unconstitutional. The rights of the Petitioner No. 2, as enshrined in and guaranteed by the Constitution, are adversely affected by the acts and utterances of the Respondent No.s 3 and 4

2. That the present Petition is being instituted on behalf of the Petitioner No. 1 through the pen of Kundeling Rimpoche, who is duly empowered and authorised to institute the same. An extract of the resolution giving the said authority by the Petitioner No. 1 is annexed hereto and marked as Annexure P-1 to this Petition.

3. That the Petitioner No. 1 was formed in the year 1996 in order to, inter alia, serve sick and needy individuals of any caste, creed race, sex, etc., through Tibetan system of medicine, and also to, inter alia, to preach the philosophy of Buddha and Dorje Shugden.

4. That the Petitioner No. 1 was formed by a group of like-minded persons, in order to protect and preserve a part of the Tibetan Mahayana Buddhist School of Philosophy that was being systematically attacked, reviled, and desecrated by the acts of omission and commission of the Respondents, specially the Respondent No.s 3 and 4.

5. That the present Petition raises certain important questions of law that will require adjudication by this Hon'ble Court, viz.,

(i) Whether the freedom of religion enshrined in Article 25 of the Constitution, can be fettered by acts of omission or commission by the State, and the acts of commission by private persons and private bodies such as the Respondent No.s 3 and 4?

(ii) Whether any individual, such as the Respondent No. 4, has the right to denigrate, besmirch, and harass persons who wish to practice,

profess and propagatē religious doctrines of their choice, and thus impinge upon the Constitutional rights of other persons?

(iii) Whether any individual, such as the Respondent No. 4, has the right to denigrate and besmirch deities of the religious doctrine adhered to by members of the Petitioner No. 1 and those of Petitioner No. 2?

(iv) Whether a private body, such as the Respondent No. 3, has the right to issue statements besmirching the deities of the religious doctrine adhered to by members of the Petitioner No. 1 and those of Petitioner No. 2?

(v) Whether the Respondent No. s 3 and 4 have any right whatsoever to forbid offering of prayers to any deity, and to then issue threats and warnings to the persons who do not obey such diktats?

(vi) Whether the Respondent No. 4 and the Respondent No. 3 can exercise such powers within India, which effectively override the authority and power of the Constitution and the Government of India, and amount to running a parallel government within the sovereign territory of India?

(vii) Whether it is permissible to run a foreign government from the territory of India, which acts as a parallel government, and which administers its own code of justice, has its own parliament, executive and Court systems, and has its own departments of Home, Security, and External Affairs etc?

(viii) Whether it is permissible for the Respondent No. 4 and Respondent No. 3 to impose sanctions and place embargoes on the basic rights of the persons who choose to worship Dorje Shugden?

6. That in order to appreciate the imminent and everyday danger the Petitioner No. 1 and its members are placed in, a brief background summary is required to be placed before this Hon'ble Court, as contained

hereunder.

7. That Tibetan Buddhism is a Mahayana Buddhist tradition, meaning that the goal of all practice is to achieve enlightenment (or Buddhahood) in order to help all other sentient beings attain this state, as opposed to mere personal liberation.

8. That Tibetan Buddhism has four main traditions, or schools. The first of these is known as the Nyingmapa. The second is called Kagyupa. The third is called Sakyapa. The fourth is Gelugpa (also known as Gelukpa).

9. That Dorje Shugden, derogatively dubbed as "Dholgyal" by the Respondent No.s 3 and 4, is worshipped as a "Dharmapala", a protector of religion, in the Gelugpa tradition. Legend has it that the Dorje Shugden, a human being who lived in the 17th century, was the strongest contender for selection as the Fifth Dalai Lama, but was foully murdered. His spirit then emerged and took on the role of a Dharmapala, who vowed to protect the Gelugpa traditions.

10. That it is also pertinent to point out that the history of religious violence in Tibet goes back a long time, as it does in most other countries, and it was in the 17th century that the Fifth Dalai Lama declared a Sect called the Jonangpa as heretical and waged a relentless war against them and nearly exterminated them. Nearly all Jonangpa Monasteries were taken over and declared as Gelugpa monasteries. It is only recently that a handful of survivors of this tradition have been discovered, practicing their religious doctrines in the hinterland of Tibet, away from the Gelugpa power centres. The Kagyupa tradition, too, bore the brunt of forceful conversions and persecutions, with the predecessors of the Karmapa and Sharmapa often exiled from their traditional Seats and homeland

11. That as a matter of fact, the deity of Dorje Shugden is worshipped in the Indian Buddhist tradition prevalent in Himachal Pradesh, Laddakh, Uttaranchal, West Bengal and Sikkim. Dorje Shugden is also worshipped in all areas of the world where the Gelugpa tradition is followed, such as Bhutan, Nepal, Mongolia, parts of China, parts of the erstwhile USSR, various countries in Europe, U.K. and U.S.A.

12. That in so far as the Gelugpa tradition is concerned, it is relevant to point out that the senior-most Lama, or priest is the Ganden Tripa, who is the spiritual head of this tradition. The Dalai Lama is merely the temporal head of the Gelugpa, and who, on account of the consolidation of power by the adherents of the Gelugpa tradition over time, became the de-facto ruler of Tibet.

16. That however, after the rapprochement between and thawing of Sino-U.S. relations, there was a withdrawal of the funding of the Free Tibet movement by the Central Intelligence Agency of the USA in the mid-1970's, and the Respondent No. 4 was forced to reconsider his options. Therefore, in view of the sudden paucity of funds, a stratagem was devised whereby the call for a Free Tibet was to be slowly given up, and in order to divert the opinion of the public (specially Tibetans) from this, a controversy was created regarding the worship of Dorje Shugden. As a matter of fact, the Respondent No. 4 does not, in his recent statements, any longer stand for the cause of a Free Tibet, but espouses autonomy for Tibet within China.

17. That as a result of this, the worship of Dorje Shugden was at first deprecated as far back as 1976, and with the complete volte-face by the Respondent No. 4 on the position of Free Tibet in 1996, the worship of Dorje Shugden was effectively outlawed by the Respondent No.s 3 and 4 in March 1996. This was done in order to create a diversion, or a smoke-screen behind which the Respondent No. 4 could downplay his volte face on the Free Tibet issue. It must be pointed out that the worshippers of Dorje Shugden, in their religious beliefs, have no political position, except to the extent of the right to freely worship Dorje Shugden.

18. That naturally since the majority of the Tibetans in India, and the majority of the worshippers of the Tibetan School of Buddhism in India are followers of the Gelugpa tradition, the call to abandon this religious practice had the effect of splitting the community of Tibetans as well as the Indian Buddhists. Using his dual role as the temporal head of the Tibetans in exile, and as a spiritual guide, the Respondent No. 4 issued numerous statements to the effect that the continuance of the worship of Dorje Shugden would be directly harmful to the health of the Respondent No. 4. A misinformation and denigration campaign was launched against the worshippers of Dorje Shugden. The argument against the worshippers of Dorje Shugden was premised on incorrect logic and takes the following

form: -

- I. The Dalai Lama embodies Tibet.
- II. People who dare criticize the Dalai Lama must be Chinese agents
- III. The Dalai Lama does not approve of worship of Dorje Shugden
- IV. Therefore Dorje Shugden worshippers must be Chinese agents

19. That a compilation of the speeches, statements and other utterances of the Respondent No. 4 and organizations controlled by him are annexed hereto and collectively marked as Annexure P-2 colly to this Petition. These have been downloaded from the personal website of the Respondent No. 4, www.dalailama.com. Interestingly, these documents form a substantial portion of the webpage containing the "Messages and Speeches" of the Respondent No. 4.

20. That a study of these shows that the Respondent No. 4, while acknowledging that the worship of Dorje Shugden in Tibet goes back to over three centuries, has now been making statements against the worshippers of Dorje Shugden. In his statements the Respondent No. 4 states that the worship of Dorje Shugden is harmful for the cause of Tibetan unity and is harmful to his own personal self. The website of the Respondent No. 4, www.dalailama.com, from which these Annexures have been downloaded, reveals that the Dorje Shugden issue takes up more webspace than any other issue.

21. That as a matter of fact, the same website of the Respondent No. 4 also contains a 42 minute documentary about the Dorje Shugden, wherein false allegations are made regarding the involvement of members of the Petitioner No. 1 in the murder of a senior monk in Dharamshala. The said allegations are not only without any basis, but are mala-fide and have been made with the express intention of whipping up hatred against the Petitioner No. 1 and worshippers of the Dorje Shugden such as the Petitioner No. 2.

22. That the said Annexures also show as to how the Tibetan Chamber of Deputies, the Tibetan Youth Congress, and numerous other organization controlled by the Respondent No. 4 have made statements against the Petitioner No. 1 and other worshippers of the Dorje Shugden. The fact that these statements all occur on the website of the Respondent No. 4 is a clear indicator of the fact that the Respondent No. 4 controls all these other organizations, and approves of the contents of the same.

23. That it is relevant to note that the worshippers of Dorje Shugden, whether or not members of the Petitioner No. 1 have been harassed and persecuted by followers of the Respondent No. 4. It is submitted that the Respondent No. 3 which issues various documents, such as identity cards, to the Tibetan refugee community has been consistently refusing to do so, unless the applicants sign a form declaring renunciation of worship of Dorje Shugden. These forms are not handed out, but are required to be signed there and then. In other words the Respondent No. 3, at the instructions of and at the behest of the Respondent No. 4 is blackmailing Dorje Shugden worshippers into giving up their religious beliefs. At the same time, Indian citizens, such as the Petitioner No. 2, who worship Dorje Shugden are reviled and condemned as non-Buddhists and Chinese agents.

24. That in the State of Himachal Pradesh where the Respondent No. 3 and 4 are situated, the District Administration is practically under the control of the Respondent No. 4 in so far as Tibetan affairs are concerned, and they do not take any action against the Respondent No. 4 or his followers. At the same time the Respondent No.s 3 and 4 have managed to have Dorje Shugden worshippers branded as criminals and offenders with the District Administration. This has resulted in a situation where the District Administration is not even prepared to consider any complaints made by the worshippers of Dorje Shugden in respect of the violence committed against them by the supporters of the Respondent No.s 3 and 4.

25. That it is submitted that following the 1996 effective outlawing of Dorje Shugden worship, many monks who believed in that practice went and settled in Mundgod in Karnataka, with the express intention of carrying out their religious practices without interference from the Respondent No.s 3 and 4 and their followers. However, in January, 2008 the Respondent No. 4 visited the Mundgod area and gave speeches against the worship of the Dorje Shugden. This eventually led to an attack by the followers of the Respondent No. 4 upon the worshippers of the

Dorje Shugden.

26. That as the latest episode of religious persecution being faced by the worshipers of Dorje Shugden is a so called referendum held on 26.01.2008 by the Respondent No.s 3 and 4. The speech of the Respondent No. 4, which led to this so called referendum is annexed hereto and marked as Annexure P-3. As is evident from the perusal of this speech, the so called referendum was to decide on two issues – (1) whether Dorje Shugden should be worshipped and (2) whether worshippers of Dorje Shugden should be allowed to share religious and material facilities.

27. That as a result, the so called referendum was held. A copy of the instructions issued on the mode of the proceedings is annexed hereto and marked as Annexure P-4. As is evident from a perusal of these instructions, those persons who wished to worship Dorje Shugden were labeled as "non-spiritual" and those who did not want to do so, were labeled "spiritual". Needless to say, the so called referendum resulted in the verdict wanted by the Respondent No.4, which is not surprising since the referendum was held in monasteries completely controlled by the Respondent No. 4., and the worshippers of Dorje Shugden were not allowed to participate.

28. That in effect therefore, not only are the worshippers of Dorje Shugden to be ostracized in religious matters, but they are also to be ostracized socially. These actions amount to the creation of an apartheid against the worshippers of Dorje Shugden by the Respondent No. 4 and 3.

28. That the Petitioners and other worshippers have made numerous attempts since 1996 to bring about a rapprochement, but every time they have been spurned by the Respondent No. 4, who amazingly still proclaims himself to be a reincarnation of Avalokiteshwara, i.e., the Buddha of Compassion. The acts of the Respondent No. 4 in this regard are more like that of a totalitarian dictator and not that of a Buddha of Compassion.

29. That in this background of facts, the following core issue is required to be decided by this Hon'ble Court -

Do the worshippers of the Dorje Shugden have the right to freely practice profess and propagate their religious beliefs in terms of the protection granted to them under Article 25 read with Article 21 of the Constitution of India?

29. That it is submitted that in case this Hon'ble Court finds the answer to the above question in the affirmative, then the next question that arises for consideration is: -

Does the Respondent No. 4 have the right to make hurtful, harmful, vindictive, and morally dubious statements against the adherents of any other religious belief, including that of the worshippers of Dorje Shugden?

30. That it is submitted that the Petitioner No. 1 has written a letter to the Hon'ble Prime Minister of India on 14.12.2007, with copies to the Home Minister, External Affairs Minister and the Secretary, External Affairs. A copy of the said letter is annexed hereto and marked as Annexure P-5 to this Petition. However, the Petitioner No. 1 is yet to receive any response to the same. At the same time, persecution of the worshippers of Dorje Shugden continues unabated.

31. That the Petitioner No. 1 has also written to the National Human Rights Commission vide letters dated 04.12.2007 and 14.12.2007. Copies of the said letters are annexed hereto and collectively marked as Annexure P-6 colly to this Petition. No response to date has been received in respect of the said letters.

32. That interestingly the Tibetan Constitution, promulgated by the Respondent No. 4 on 10.03.1963 provides as under: -

ARTICLE 17. Every Tibetan shall have the right to freedom of thought, conscience and religion. The right includes freedom to openly believe, practice, worship and observe any religion either alone or in community with others.

33. That it is therefore evident that the actions of the Respondent No. 4 are not only in contravention of Indian Laws, which he does not respect, but they also belie his own law.

34. That in these facts and circumstances, the present Petition is being presented before this Hon'ble Court on, inter alia, the following Grounds, which are without prejudice to each other and are without prejudice to such other Grounds as may be raised during the course of hearing of the present Petition:

GROUND

A. For the reason that the members of the Petitioner Society, as well as other worshippers of the Dorje Shugden, including the Petitioner No. 2, enjoy the right to freely profess, practice and propagate their religious beliefs, as enshrined in Article 25 of the Constitution of India.

B. For the reason that this right cannot be diluted, abridged, circumscribed or in any manner belittled, except with the authority of law.

C. For the reason that the right to religious freedom is also an intrinsic part of the overall right contained in Article 21 of the Constitution, and as such no person can be deprived of the same except according to procedure established by law.

D. For the reason that the acts of omission of the Respondent No.s 1 and 2 are resulting in a situation where persons who are not Indian citizens are impinging, within India, upon the rights of Indian citizens, which is a situation that cannot be countenanced.

E. For the reason that the Respondent No.s 3 and 4 are effectively running a parallel governmental administration within India, thereby impinging upon the sovereignty and integrity of India, which is not permissible in India.

F. For the reason that the acts of the Respondent No. 4 have the effect of spreading religious intolerance which needs to be checked, and which cannot be permitted by the Respondent No.s 1 and 2.

G. For the reason that the acts of the Respondent No. 4 are liable to be punished under Section 295-B of the Indian Penal Code, 1860, and as such the Respondent No.s 1 and 2 are liable to initiate action against the Respondent No.s 3 and 4.

H. For the reason that no person, let alone a non-citizen, has the right in India, to denigrate and besmirch the religious beliefs and practices of any other person, whether a citizen of India or not.

I. For the reason that the Respondent No.s 1 and 2 are vested with the duty to protect the right to religious freedom of the members of the Petitioner Society as well as other worshippers of Dorje Shugden, which is required to be performed without reference to the Respondent No. 4 and 3.

J. For the reason that the acts of the Respondent No. 4 promote communal enmity and hatred, which cannot be countenanced by the Respondent No.s 1 and 2 and by this Hon'ble Court.

K. For the reason that the Respondent No.s 3 and 4 and his adherents cannot be permitted to run a parallel government within India to the detriment of, and in derogation of the Government of India.

L. For the reason that the Respondent No. 3 and 4 and the adherents of Respondent No. 4 cannot be permitted to run a parallel judicial system within India, to the derogation of the Court system of India.

M. For the reason that the Respondent No. 4 cannot use his position as the head of the state of Tibet in exile to deny Tibetans the rights and privileges that accrue to them by virtue of being Tibetans, as well as by being resident in India.

N. For the reason that the theocracy of the Respondent No. 4 cannot be permitted to exist within the secular and democratic structure of India.

35. That the Petition is not barred by delay and laches. That further the Petitioners have no other alternative or equally efficacious remedy except to approach this Hon'ble Court under its extraordinary jurisdiction.

36. That this Hon'ble Court has the territorial jurisdiction to hear the present Petition.

37. That the Petitioners have not preferred any Petition on the same cause of action as the present Petition, before this Hon'ble Court, or the Hon'ble Supreme Court of India.

38. That the annexures to the Petition are either true copies of the originals, or confirm to the requirements of Section 65-B of the Indian Evidence Act.

39. That in the facts and circumstances set out herein above it is most respectfully prayed that this Hon'ble Court be graciously pleased to:-

- A. Issue a Writ of Mandamus, or any other appropriate Writ, Order or Direction, directing the Respondent No.s 1 and 2 to take effective steps to ensure that the members of the Petitioner Society, and other worshippers of the Dorje Shugden, including the Petitioner No. 2, are not harassed, attacked, and otherwise maltreated by the Respondent No. 3 and the Respondent No. 4 and his adherents.
- B. Issue a Writ of Mandamus, or any other appropriate Writ, Order or Direction, directing the Respondent No.s 1 and 2 to take effective steps to protect the rights under Article 21 and Article 25 of the Constitution of India of the members of the Petitioner Society, and other worshippers of the Dorje Shugden, including the Petitioner No. 2, against the Respondent No.s 3 and 4, and the adherents of the Respondent No. 4.
- C. Issue appropriate directions to the Respondent No.3 to refrain from making any statements against the Dorje Shugden, or his worshippers, including the Petitioners, which have the effect of inciting communal and religious hatred.
- D. Issue appropriate directions to the Respondent No. 4 to refrain from making any statements against the Dorje Shugden, or his worshippers, including the Petitioners, which have the effect of inciting communal and religious hatred.
- E. Direct the Respondent No.s 1 and 2 to take appropriate action under the law, against the Respondent No.s 3 and 4 for inciting communal and religious hatred.
- F. Award costs of the Petition to the Petitioner and against the Respondents, jointly and severally, specially against the Respondent No.s 3 and 4.
- G. Pass such other and further orders as may be required in the facts and circumstances of the case.

Petitioner

Through Counsel:

Jayant Tripathi & Abhik Mazumdar

Advocates

16. That however, after the rapprochement between and thawing of Sino-U.S. relations, there was a withdrawal of the funding of the Free Tibet movement by the Central Intelligence Agency of the USA in the mid-1970's, and the Respondent No. 4 was forced to reconsider his options. Therefore, in view of the sudden paucity of funds, a stratagem was devised whereby the call for a Free Tibet was to be slowly given up, and in order to divert the opinion of the public (specially Tibetans) from this, a controversy was created regarding the worship of Dorje Shugden. As a matter of fact, the Respondent No. 4 does not, in his recent statements, any longer stand for the cause of a Free Tibet, but espouses autonomy for Tibet within China.

17. That as a result of this, the worship of Dorje Shugden was at first deprecated as far back as 1976, and with the complete volte-face by the Respondent No. 4 on the position of Free Tibet in 1996, the worship of Dorje Shugden was effectively outlawed by the Respondent No.s 3 and 4 in March 1996. This was done in order to create a diversion, or a smoke-screen behind which the Respondent No. 4 could downplay his volte face on the Free Tibet issue. It must be pointed out that the worshippers of Dorje Shugden, in their religious beliefs, have no political position, except to the extent of the right to freely worship Dorje Shugden.

18. That naturally since the majority of the Tibetans in India, and the majority of the worshippers of the Tibetan School of Buddhism in India are followers of the Gelugpa tradition, the call to abandon this religious practice had the effect of splitting the community of Tibetans as well as the Indian Buddhists. Using his dual role as the temporal head of the Tibetans in exile, and as a spiritual guide, the Respondent No. 4 issued numerous statements to the effect that the continuance of the worship of Dorje Shugden would be directly harmful to the health of the Respondent No. 4. A misinformation and denigration campaign was launched against the worshippers of Dorje Shugden. The argument against the worshippers of Dorje Shugden was premised on incorrect logic and takes the following

form: -

- I. The Dalai Lama embodies Tibet.
- II. People who dare criticize the Dalai Lama must be Chinese agents
- III. The Dalai Lama does not approve of worship of Dorje Shugden
- IV. Therefore Dorje Shugden worshippers must be Chinese agents

19. That a compilation of the speeches, statements and other utterances of the Respondent No. 4 and organizations controlled by him are annexed hereto and collectively marked as Annexure P-2 colly to this Petition. These have been downloaded from the personal website of the Respondent No. 4, www.dalailama.com. Interestingly, these documents form a substantial portion of the webpage containing the "Messages and Speeches" of the Respondent No. 4.

20. That a study of these shows that the Respondent No. 4, while acknowledging that the worship of Dorje Shugden in Tibet goes back to over three centuries, has now been making statements against the worshippers of Dorje Shugden. In his statements the Respondent No. 4 states that the worship of Dorje Shugden is harmful for the cause of Tibetan unity and is harmful to his own personal self. The website of the Respondent No. 4, www.dalailama.com, from which these Annexures have been downloaded, reveals that the Dorje Shugden issue takes up more webspace than any other issue.

21. That as a matter of fact, the same website of the Respondent No. 4 also contains a 42 minute documentary about the Dorje Shugden, wherein false allegations are made regarding the involvement of members of the Petitioner No. 1 in the murder of a senior monk in Dharamshala. The said allegations are not only without any basis, but are mala-fide and have been made with the express intention of whipping up hatred against the Petitioner No. 1 and worshippers of the Dorje Shugden such as the Petitioner No. 2.

22. That the said Annexures also show as to how the Tibetan Chamber of Deputies, the Tibetan Youth Congress, and numerous other organization controlled by the Respondent No. 4 have made statements against the Petitioner No. 1 and other worshippers of the Dorje Shugden. The fact that these statements all occur on the website of the Respondent No. 4 is a clear indicator of the fact that the Respondent No. 4 controls all these other organizations, and approves of the contents of the same.

23. That it is relevant to note that the worshippers of Dorje Shugden, whether or not members of the Petitioner No. 1 have been harassed and persecuted by followers of the Respondent No. 4. It is submitted that the Respondent No. 3 which issues various documents, such as identity cards, to the Tibetan refugee community has been consistently refusing to do so, unless the applicants sign a form declaring renunciation of worship of Dorje Shugden. These forms are not handed out, but are required to be signed there and then. In other words the Respondent No. 3, at the instructions of and at the behest of the Respondent No. 4 is blackmailing Dorje Shugden worshippers into giving up their religious beliefs. At the same time, Indian citizens, such as the Petitioner No. 2, who worship Dorje Shugden are reviled and condemned as non-Buddhists and Chinese agents.

24. That in the State of Himachal Pradesh where the Respondent No. 3 and 4 are situated, the District Administration is practically under the control of the Respondent No. 4 in so far as Tibetan affairs are concerned, and they do not take any action against the Respondent No. 4 or his followers. At the same time the Respondent No.s 3 and 4 have managed to have Dorje Shugden worshippers branded as criminals and offenders with the District Administration. This has resulted in a situation where the District Administration is not even prepared to consider any complaints made by the worshippers of Dorje Shugden in respect of the violence committed against them by the supporters of the Respondent No.s 3 and 4.

25. That it is submitted that following the 1996 effective outlawing of Dorje Shugden worship, many monks who believed in that practice went and settled in Mundgod in Karnataka, with the express intention of carrying out their religious practices without interference from the Respondent No.s 3 and 4 and their followers. However, in January, 2008 the Respondent No. 4 visited the Mundgod area and gave speeches against the worship of the Dorje Shugden. This eventually led to an attack by the followers of the Respondent No. 4 upon the worshippers of the

Dorje Shugden.

26. That as the latest episode of religious persecution being faced by the worshipers of Dorje Shugden is a so called referendum held on 26.01.2008 by the Respondent No.s 3 and 4. The speech of the Respondent No. 4, which led to this so called referendum is annexed hereto and marked as Annexure P-3. As is evident from the perusal of this speech, the so called referendum was to decide on two issues – (1) whether Dorje Shugden should be worshipped and (2) whether worshippers of Dorje Shugden should be allowed to share religious and material facilities.

27. That as a result, the so called referendum was held. A copy of the instructions issued on the mode of the proceedings is annexed hereto and marked as Annexure P-4. As is evident from a perusal of these instructions, those persons who wished to worship Dorje Shugden were labeled as "non-spiritual" and those who did not want to do so, were labeled "spiritual". Needless to say, the so called referendum resulted in the verdict wanted by the Respondent No.4, which is not surprising since the referendum was held in monasteries completely controlled by the Respondent No. 4., and the worshippers of Dorje Shugden were not allowed to participate.

28. That in effect therefore, not only are the worshippers of Dorje Shugden to be ostracized in religious matters, but they are also to be ostracized socially. These actions amount to the creation of an apartheid against the worshippers of Dorje Shugden by the Respondent No. 4 and 3.

28. That the Petitioners and other worshippers have made numerous attempts since 1996 to bring about a rapprochement, but every time they have been spurned by the Respondent No. 4, who amazingly still proclaims himself to be a reincarnation of Avalokiteshwara, i.e., the Buddha of Compassion. The acts of the Respondent No. 4 in this regard are more like that of a totalitarian dictator and not that of a Buddha of Compassion.

29. That in this background of facts, the following core issue is required to be decided by this Hon'ble Court -

Do the worshippers of the Dorje Shugden have the right to freely practice profess and propagate their religious beliefs in terms of the protection granted to them under Article 25 read with Article 21 of the Constitution of India?

29. That it is submitted that in case this Hon'ble Court finds the answer to the above question in the affirmative, then the next question that arises for consideration is: -

Does the Respondent No. 4 have the right to make hurtful, harmful, vindictive, and morally dubious statements against the adherents of any other religious belief, including that of the worshippers of Dorje Shugden?

30. That it is submitted that the Petitioner No. 1 has written a letter to the Hon'ble Prime Minister of India on 14.12.2007, with copies to the Home Minister, External Affairs Minister and the Secretary, External Affairs. A copy of the said letter is annexed hereto and marked as Annexure P-5 to this Petition. However, the Petitioner No. 1 is yet to receive any response to the same. At the same time, persecution of the worshippers of Dorje Shugden continues unabated.

31. That the Petitioner No. 1 has also written to the National Human Rights Commission vide letters dated 04.12.2007 and 14.12.2007. Copies of the said letters are annexed hereto and collectively marked as Annexure P-6 colly to this Petition. No response to date has been received in respect of the said letters.

32. That interestingly the Tibetan Constitution, promulgated by the Respondent No. 4 on 10.03.1963 provides as under: -

ARTICLE 17. Every Tibetan shall have the right to freedom of thought, conscience and religion. The right includes freedom to openly believe, practice, worship and observe any religion either alone or in community with others.

33. That it is therefore evident that the actions of the Respondent No. 4 are not only in contravention of Indian Laws, which he does not respect, but they also belie his own law.

34. That in these facts and circumstances, the present Petition is being presented before this Hon'ble Court on, inter alia, the following Grounds, which are without prejudice to each other and are without prejudice to such other Grounds as may be raised during the course of hearing of the present Petition:

GROUND

A. For the reason that the members of the Petitioner Society, as well as other worshippers of the Dorje Shugden, including the Petitioner No. 2, enjoy the right to freely profess, practice and propagate their religious beliefs, as enshrined in Article 25 of the Constitution of India.

B. For the reason that this right cannot be diluted, abridged, circumscribed or in any manner belittled, except with the authority of law.

C. For the reason that the right to religious freedom is also an intrinsic part of the overall right contained in Article 21 of the Constitution, and as such no person can be deprived of the same except according to procedure established by law.

D. For the reason that the acts of omission of the Respondent No.s 1 and 2 are resulting in a situation where persons who are not Indian citizens are impinging, within India, upon the rights of Indian citizens, which is a situation that cannot be countenanced.

E. For the reason that the Respondent No.s 3 and 4 are effectively running a parallel governmental administration within India, thereby impinging upon the sovereignty and integrity of India, which is not permissible in India.

F. For the reason that the acts of the Respondent No. 4 have the effect of spreading religious intolerance which needs to be checked, and which cannot be permitted by the Respondent No.s 1 and 2.

G. For the reason that the acts of the Respondent No. 4 are liable to be punished under Section 295-B of the Indian Penal Code, 1860, and as such the Respondent No.s 1 and 2 are liable to initiate action against the Respondent No.s 3 and 4.

H. For the reason that no person, let alone a non-citizen, has the right in India, to denigrate and besmirch the religious beliefs and practices of any other person, whether a citizen of India or not.

I. For the reason that the Respondent No.s 1 and 2 are vested with the duty to protect the right to religious freedom of the members of the Petitioner Society as well as other worshippers of Dorje Shugden, which is required to be performed without reference to the Respondent No. 4 and 3.

J. For the reason that the acts of the Respondent No. 4 promote communal enmity and hatred, which cannot be countenanced by the Respondent No.s 1 and 2 and by this Hon'ble Court.

K. For the reason that the Respondent No.s 3 and 4 and his adherents cannot be permitted to run a parallel government within India to the detriment of, and in derogation of the Government of India.

L. For the reason that the Respondent No. 3 and 4 and the adherents of Respondent No. 4 cannot be permitted to run a parallel judicial system within India, to the derogation of the Court system of India.

M. For the reason that the Respondent No. 4 cannot use his position as the head of the state of Tibet in exile to deny Tibetans the rights and privileges that accrue to them by virtue of being Tibetans, as well as by being resident in India.

N. For the reason that the theocracy of the Respondent No. 4 cannot be permitted to exist within the secular and democratic structure of India.

35. That the Petition is not barred by delay and laches. That further the Petitioners have no other alternative or equally efficacious remedy except to approach this Hon'ble Court under its extraordinary jurisdiction.

36. That this Hon'ble Court has the territorial jurisdiction to hear the present Petition.

37. That the Petitioners have not preferred any Petition on the same cause of action as the present Petition, before this Hon'ble Court, or the Hon'ble Supreme Court of India.

38. That the annexures to the Petition are either true copies of the originals, or confirm to the requirements of Section 65-B of the Indian Evidence Act.

39. That in the facts and circumstances set out herein above it is most respectfully prayed that this Hon'ble Court be graciously pleased to:-

A. Issue a Writ of Mandamus, or any other appropriate Writ, Order or Direction, directing the Respondent No.s 1 and 2 to take effective steps to ensure that the members of the Petitioner Society, and other worshippers of the Dorje Shugden, including the Petitioner No. 2, are not harassed, attacked, and otherwise maltreated by the Respondent No. 3 and the Respondent No. 4 and his adherents.

B. Issue a Writ of Mandamus, or any other appropriate Writ, Order or Direction, directing the Respondent No.s 1 and 2 to take effective steps to protect the rights under Article 21 and Article 25 of the Constitution of India of the members of the Petitioner Society, and other worshippers of the Dorje Shugden, including the Petitioner No. 2, against the Respondent No.s 3 and 4, and the adherents of the Respondent No. 4.

C. Issue appropriate directions to the Respondent No.3 to refrain from making any statements against the Dorje Shugden, or his worshippers, including the Petitioners, which have the effect of inciting communal and religious hatred.

D. Issue appropriate directions to the Respondent No. 4 to refrain from making any statements against the Dorje Shugden, or his worshippers, including the Petitioners, which have the effect of inciting communal and religious hatred.

E. Direct the Respondent No.s 1 and 2 to take appropriate action under the law, against the Respondent No.s 3 and 4 for inciting communal and religious hatred.

F. Award costs of the Petition to the Petitioner and against the Respondents, jointly and severally, specially against the Respondent No.s 3 and 4.

G. Pass such other and further orders as may be required in the facts and circumstances of the case.

Petitioner

Through Counsel:

Jayant Tripathi & Abhik Mazumdar

Advocates