

MOST RESPECTFULLY SHEWETH:

1. That the instant writ petition under Article 32 of the Constitution of India read with Order XXXV of Supreme Court Rules, 1966 is being filed for directions to the respondents to ensure scheduling of elections in cooler months thereby increasing the possibilities of better and more voter turnouts so as to make it in consonance with the democratic principles of maximum participation of the eligible voters.
2. That the Petitioner is a trust, duly registered under the Indian Trusts Act and has been working towards social cause and being an Indian Entity is therefore competent to file and maintain this writ petition.
3. That the Petitioner has represented the Election Commission of India as also the Union Of India, through the Hon'ble Prime Minister vide representation dated 29/06/2010 as also had sent e-mail representations to the Election Commission

of India as also the home ministry vide representation dated 25/06/2010. The representations are collectively being annexed herewith as **Annexure P-1.** (Collectively)

Preliminary Submissions

In political theory, the authority of the government in democracies derives solely from the consent of the governed. The principal mechanism for translating that consent into governmental authority is the holding of free and fair elections. Democratic elections are not merely symbolic. They are competitive, periodic, inclusive, definitive elections in which the chief decision-makers who would form the government are selected by citizens who enjoy broad freedom to criticize government, to publish their criticism and to present alternatives.

The Democracy Watch (International) website, further defines fair democratic elections as, "Elections in which great care is taken to prevent any explicit or hidden structural bias towards any one candidate, aside from those beneficial biases that naturally result from an electorate that is equally well informed about the various assets and liabilities of each candidate". This was more

formally stated in 2000 by Chief Justice Murray Gleeson of the Australian High Court as "The democratic and lawful means of securing change, if change be necessary, is an expression of the will of an informed electorate."

The Indian democracy can be no different from other. The very fact that billions of people, renew their faith in the power of the vote through successive peaceful and fair polls, is testimony to their entrenched belief in the efficacy of the democratic system. This is the reason why, notwithstanding the huge expenditure involved in the exercise, which a poor and developing country like India can ill afford, elections are regarded not as a luxury but as an essential component of democracy.

Every election is a turning point in the history of a democratic nation. Viewed from any aspect, political, social or logical, elections in India, whether at the national or state levels, have invariably been a fascinating story. Politically, these have contributed immensely to national cohesion and the growth of democratic temper. Socially, these have been a great equaliser, offering identical

opportunities for exercising choice to the entire electorate - poor or rich, rural or urban, educated or illiterate, skilled or unskilled, male or female. Logically, their outcome has mirrored the complexities of the world's largest democracy and helped to provide the most reliable insight into the voting behaviour of the population and the factors which influence its choice. Administratively, these have posed formidable challenges in sheer organisation and logistics which no other democracy in the world has to contend with. And, above all, news-wise, there is possibly no other single event relating to India which offers greater interest, excitement and thrill.

Independent India is only 62 years old. But, among all the countries newly liberated from the colonial yoke, India alone has earned the singular distinction of not only being the world's largest functioning, effective democracy but also of setting an example by conducting as many as fifteen free and fair elections at the national, and more than 300, at the state level.

Indeed, if one takes into account the numerous by-elections, it can be said that there is hardly a stretch of four to six months in a year during which an election is

not being held in some part of the country or the other. Experience garnered at successive elections has honed the election machinery to such a state of refinement that the Election Commission of India claims to be ever ready to conduct a general election - a claim that came to be successfully tested when the Commission was called upon to conduct mid-term polls to the eleventh and the twelfth Lok Sabha at short notice, and is set once again to go through the exercise in less than 18 months after the last time.

More importantly, elections have become a way of life and an exercise of faith for the Indian masses. Successive elections have both enhanced and deepened the people's commitment to democracy. They have also made the Indian voter fully conscious of the value of his vote and the power of the ballot as the most potent instrument of change. Compared to the simple voter of 1952, when the first general elections were held, the voter of 2009, who witnessed the fifteenth, is far more discerning, sophisticated, alert and politically aware as he is more literate and his interest has only increased with the advent of television and radio and mobile phones. He

knows his mind, and he is mindful of his own and the country's interests.

Each election has also exposed certain inherent weaknesses and inadequacies of the electoral system, thus helping to highlight the imperative of constant systematic reform and refinements through amendments to the People's Representation Act enacted by Parliament in 1951.

Indian elections are unique in some respects. Some of its unusual features spring from, and reflect the vastness of the country, its seasonal diversities, its geographical complexities and the variations in regional environments.

The fundamental principle upon which Democracy stands is the formation of a government which is by the people, for the people and of the people. This perhaps roots from the stating lines of the preamble of our Constitution, which begins with, "We the People of India....." thereby underlying the principle of people participation in every sphere of life, be it formation of the Government or the formation of the Constitution or rule of law itself. This takes us to the root of any election or any government

formation which is the participation of the people in elections.

Though many countries in the world have compulsory voting deeply imbibed in their electoral system, however many other democracies feel it to be against the very purpose of democracy. The number of people who get out of their homes to cast their votes and exercise their right to franchise plays a very important role in representing a candidate. Many a times it has been seen the candidates losing by a whisker margin of 10, 20 or 100 votes. This in turn could lead to a political party falling short of 1 or 2 members to form a majority, which in turn can lead to a hung house, coalition governments, and weak government which could fall any time, thus plunging the country in chaos. Thus the participation of a voter in an election plays the most important role. This turnout of the voter can be best described as 'a measure of the percentage of eligible voters who cast a ballot in any given election'. In recent years some countries have worried about decreasing voter turnout.

Voter turnout varies considerably from democracy to democracy. It tends to be quite low in the United States,

Canada, and Latin America when compared to most of Europe, Oceania and Asia. In Western Europe 77% of eligible voters cast ballots on average, in the United States it is closer to 50%, in Latin America the average has been 53% since 1945.

The factors that affect turnout are hard to measure. Wealth and literacy have some effect but are not good measures. Countries such as Angola and Ethiopia have long had high turnouts, but so have the wealthy states of Europe. The United Nations Human Development Index shows some correlation with voter behaviour, with higher standards of living being linked to higher turnout. Individual elections within a country can show considerable variation. Not surprisingly competitive elections tend to have higher turnouts. One issue found only in the continent spanning nations such as Canada, the United States and Russia is that of time zones. Western Americans have often complained that since the election has already been decided in the east of the country that turnout is depressed on the Pacific coast. The reason for not holding of election simultaneously on the pacific coast is due to its topography, which cannot

allow the elections to take place before as the weather is not at all conducive for holding of elections.

This takes us to one of the most important factors which is directly proportional to voter turnout, that of the weather. Weather also can have an important effect with rain or snow reducing turnouts, especially among moderates. The date an election is held also can change turnout.

Weather, plays an important role in any election. Any extremities in weather and one can be sure of less turnout. The voters on the day of elections are like the kings who can decide the fate of the people. On the day of the election they prefer to lead a luxurious life as per their standards and bask in their extreme power which they wield albeit for that day. In cases of extreme weather conditions, the human psychology plays an even greater role. Their motivation levels for going to vote takes a drastic drop and they would not do anything which would result in discomfort to their bodies. Voter fatigue can also lower turnout. If there are many elections in close succession due to unstable governments, or in countries

where referenda are held too frequently voter turnout will decrease as the public gets tired of participating.

There are other factors also determine the voter turnouts, such as disaffection with politics, scandals combined with negative campaigning and a general distrust of the political process have turned the public away from politics. Some pundits blame the decline on the increasing similarity between the major parties in the country and no other viable option. Others take a more positive view arguing that the reduced number of voters reflects the widespread contentment with the status quo. It is high time when this decrease of lower voter turnouts are taken care of. In India, the decision relating to holding of elections is in the exclusive domain of the Election Commission of India. The Constitution of India under Article 324 states that the superintendence, direction and control of the elections shall be vested in the Election Commission. Article 85 of the Constitution of India states there should not be a gap of more than 6 months since the last session of the house and the next, meaning thereby, that if the government's term expires or the government loses majority in the house, the President

may dissolve the house and fresh elections should be held as soon as possible. Section 14 of the Representation of People Act 1951 states that a general election shall be notified to be held for the purpose of constituting a new house of the People on the expiration of the duration of the existing house or on its dissolution. Such notification can not be issued at any time earlier than 6 months prior to the date on which the duration of that house would expire under provisions of clause (2) of Article 83 of the Constitution of India. There however is no time frame given in which the elections should be held. The election commission of India, thus has to announce the dates for holding of elections. The only care which has to be taken is that there should not be gap of more than 6 months between 2 sessions of the house.

Brief Facts:

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1. That, it is respectfully submitted that there being no time criterion for holding of elections, it is only better if the elections are held at a

time which would be more conducive to maximising voter participation. In this regard it would only be justified if we see and correlate the data gathered for various elections in the country. Whenever, elections are held in the more conducive months and not in extreme weather conditions the voter turnout goes up by almost 5%. Though there might be instances of exceptions, but the same cannot be generic and cannot help evaluate trends.

A comparative chart is as under:-

General Election	YEAR	Period of Poll	Polling Percentage
1 st	1952	October 1951- February 1952	61.2
2 nd	1957	24 th February-14 th March 1957	62.2
3 rd	1962	19 th - 25 th February 1962	55.42
4 th	1967	17 th Feb-21 st	61.33

		February 1967	
5 th	1971	1 st March-10 th March 1971	55.29
6 th	1977	16 th – 20 th March 1977	60.49
7 th	1980	3 rd – 6 th Jan, 1980	56.92
8 th	1984	24 th -28 th December, 1984	63.56
9 th	1989	22 nd – 26 th November, 1989	61.95
10 th	1991	20th May- 15th June, 1991	56.93
11 th	1996	27th April-30th May, 1996	57.94
12 th	1998	16 th – 23 rd Feb, 1998	61.97
13 th	1999	5 th Sept- 6 th Oct, 1999	59.99
14 th	2004	20th April- 10th May, 2004	57.65

(Figures as obtained from the Election Commission of India)

It is submitted that these figures and data were obtained by the Petitioner from the Election Commission under the Right To Information Act. **The Copy of the information sought from the Election Commission of India and the reply received thereto from the election commission as delivered by the Petitioner is being Annexed herewith as Annexure P-2.**

2. That, a look at the table above shows that elections in 1991, 1996 and 2004 was held in the summer months, which has led to a lower voter turnout. There can be no doubt that there might be other factors which could have effected in lower voter turnout but it cannot be lost sight of that majority of the population of our country lives in plains, where the weather is hot and humid for an average of 9 months in an year from the months of Mid March to the Month of Mid November.

3. That, during the hotter months Mid March to Mid November people prefer to stay indoors and seldom want to go out, leaving behind the comfort of manmade cooling conditions indoors. The more financially sound venture out to more cooler hills in search of cool temperature. The

schools, colleges and even the courts, are closed on account of summer vacations. This perhaps was the reason, why no general election was held in the month starting from April to September before 1991. (as is evident from the chart).

4. That, one can also not lose sight of the fact that our country is a poor nation and cannot afford unnecessary expenses. Though, holding of elections is a basis of an effective, vibrant and functioning democracy, but time has come when we ought to ask the question: at what cost ? The expenses of holding an election in our poor country has become so enormous that the Democracy looks like the little David when compared with the Goliathan expenses. The figures as given to the petitioner under the RTI Act by the respondent Commission is as under:-

~~## C) Though there might be instances of exceptions, but the same cannot be generic and cannot help evaluate trends. This has come later.~~

YEAR OF ELECTION	EXPENDITURE INCURRED (Provisional)(in Rs.)
1952	10,45,00,000
1957	5,90,00,000
1962	7,32,00,000
1967	10,79,69,000
1971	11,60,87,450
1977	23,03,68,000
1980	54,77,39,000
1984	81,51,34,000
1989	154,22,00,000
1991	359,10,24,679
1996	597,34,41,000
1998	666,22,16,000*
1999	880,00,00,000 **
2004	1300,00,00,000***

(Figures as provided by the Election Commission)

That the above given chart is part of the answer provided by the Election commission of India to the Petitioner on his query regarding the costs involved in conduct of

elections. The reply as received by the Petitioner is already annexed as **Annexure P-2.**

5. That, a bare perusal of this chart would show that in the year 1977, 1980, 1991, 1996, 1999 & 2004 the Expenditure involved in holding of the elections have risen tremendously when compared to the immediate previous election, so much so that in 1980 the expense compared to the previous election i.e.1977 was almost 138 % more. However, this can also be attributed to the emergent situations prevailing at those times, wherein the Democracy itself was at stake. A look at the other elections where expenses rose tremendously when compared to the previous election would show that in the Year 1991, when there was no such emergent situation the expenses were 133% more than the previous election, similarly in 1996 the expenses for conducting the elections rose by 66% when compared with the already expensive 1991 election, in 1998 a mid- term election was announced and the expenses rose by 11.53 % when compared with the 1996 election. Many scholars and economists might say, that, this is because elections were held within an year and half of each other. However,

the very next mid-term election was held within a few from each other, however, the expenses for the elections rose by 32.09% and thereafter the 2004 election the expenses again rose by 48% when compared with 1999 elections. The reason for this fluctuating election expenses can be attributed with inflation, price rise, and various other factors but a closer look at the months in which the elections were held would show that in the year 1971, 1977, 1991,1996,1999, & 2004 the elections were held in non conducive months when the weather is hot and humid. **Though there may be certain instances of exceptions but the same are not generic and cannot help in evaluating the trends.**

6. That in the summer months the expenses related to holding of elections increase many fold due to various factors such as greater electricity requirement, cold water, aerated drinks, better health facilities not only for the people involved in the conduct of the elections but also the voters on the day of polling, special arrangements to save people from heat strokes. In the summer months the expenses of electricity rises as arrangements for fans and coolers have to be made not

only for the polling area but also for stays of the security and other personnel.

7. That, apart from heavy expenses incurred in conducting elections during the summer months other incidental problems also increase not only for the election commission but also the voters resulting in lesser turnout. The election commission has to make special arrangements which it would not make for elections to be held in winter months. This is evident from election commissions letter dated 01.06.1998 bearing no. 458/4/98/PLN-IV giving out instructions to the various Chief Election Commissioners of the states. The letter is as under:-

“INSTRUCTION SI. No.33

Election Commission’s letter no. 458/4/98/PLN-IV dated 01.06.1998 adressed to CEOs of 1. Andhra Pradesh, 2. Assam, 3. Bihar, 4. Haryana 5. Himachal Pradesh, 6. Jammu & Kashmir, 7. Karnataka, 8. Kerala, 9. Maharastra, 10. Orissa, 11. Punjab, 12. Uttar Pradesh, and 13. Tripura.

***Subject: Bye-elections in June, 1998- Facilities at
Polling Stations during hot weather conditions***

I am directed to state that the commission, after taking into account the extreme heat and weather conditions prevailing in most of the states during the first week of June, 1998, hereby directs that for the elections being held on 3rd June, 1998 as the date of poll, as far as possible, the following precautions be taken and provisions be made:

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- 1. Provide covered shelter for the electors at every polling station and if necessary have the extra rooms available in the building opened for the electors to take rest.*
 - 2. Make adequate arrangements at every polling station for storage of drinking water in earthen pots and one employee or a daily wage earner shall be deployed at every polling station to continuously refill the water pots.*
 - 3. Every polling party shall be supplied with oral dehydration medicine for their own use as well as for use in case of any voter needing the same due to heat stroke.*
 - 4. Every polling party shall be supplied with sugar and salt for oral dehydration therapy purposes.*
 - 5. Have one page hand bills prepared by the chief medical officer on "dos and don'ts" of heat stroke first aid and supply the hand bills to each of the polling party.*
 - 6. The DEO of each district where the constituency that are going to poll are located*

shall requisition the services of Para Medical staff from the offices of the Chief District Medical Officers and one such Para Medical staff member shall accompany every, Mobile Patrol unit and Sector Officer in their vehicles along with essential heat stroke medicines. Such mobile patrol unit shall touch every polling station once in every hour so that instant medical assistance would be available to any voter needing such help besides the first aid facilities given to the polling parties.

- 7. Also appeal to the electors to carry wet towels to protect themselves against dehydration and also advice women electors to avoid bringing children along with them to polling stations due to hot weather conditions.*

**Kindly acknowledge receipt and confirm
action taken.**

It is respectfully submitted that though the above letter is specifically for election to be held on 3rd June, 1998 however, it only fructifies the contention of the petitioner that elections in summer months deserves more attention, needs more facilities and thus is more expensive as also troublesome for the voters and hence

is non-conducive for holding elections during that time. It is a combination of these factors directly related to the weather conditions that results in lower voter turnouts. A copy of letter as obtained by the Petitioner under RTI is being annexed herewith as **Annexure P-3**.

8. That, it is further submitted that in a country with the second largest population of 120 crores and more even a small percentage of votes can change the entire election result.

9. That holding of elections in the summers results in millions of voters being kept away from their valid constitutional right to franchise, which can only be taken away by the rule of law.

10. That, holding of elections in the summer months is also non conducive for the Security Personals and other people related with the safe, free and fair elections in the country. The scorching heat during the summers tends to lower the efficiency level and the hot and humid climate contributes to higher level of energy loss, which in turn has a negative effect on work performance of an individual. The challenges being faced by the various

individuals related to holding of an election is already tough, and the extreme weather conditions only adds blocks and creates hurdle to that challenge, though there might be a few individuals who work more efficiently when confronted with challenges but a majority of those involved in the electioneering, starting from the electors to the security personnel's, would fall outside the purview of those individuals. By holding of elections in the summer months, the respondent commission only adds to their woes. Furthermore it is respectfully submitted that the role of local police also is of utmost importance in any election. The Policemen per people ration in India is amongst the lowest in the world and hence it is only sensible that the available resources should be properly used for optimum utilization. By holding elections in winters, our police men would be able to work in a more conducive atmosphere thus raising their efficiency and decreasing their fatigue levels. The police per citizen ratio in various parts of our country has been obtained by the Petitioner under the Right to Information Act, the answers as received is being annexed herewith as **Annexure P-4**.

11. That it is also a known phenomenon that in India, during the summer months, the mercury rises to over 40 degrees and over the recent years it is fast becoming constant at an average of 40-45 degrees. This rise in temperature often results in long power cuts, which interalia means that for proper functioning of voting machines there needs a constant power back up as the machines work on batteries. This raises the requirements of generators which only adds to the cost. If the same election was to be held in cooler months the need for a constant power back up would be decreased as the machines could rely on electricity supply and the dependence on battery backup could be reduced thus reducing costs. The batteries on which the Electronic Machines work are also at a higher risk of getting snags leading to disruptions at the time of voting. India being a power deficit nation, chances of continuous power supply for proper functioning of the EVM's is low. This deficit increases in the summer months thus raising the chance of power cuts. Power cuts in the summer months would increase the requirements for alternate power source, such as a generator, thus raising costs.

12. That high temperatures apart from being harsh on humans are also bad for electronic equipment. The Respondent Election Commission in their reply under the RTI Act, have mentioned that Electronic Voting Machines work on temperatures between (0-55) degree centigrade. During summers when the temperature rises above 45 degrees in many places the chances of machines malfunctioning increase as the temperature between 45-55 degrees centigrade and/ or below 0 to 10 degrees centigrade can be safely termed a sensitive band.

13. It is respectfully submitted that weather has a profound impact on health and well-being of humans. Hot and humid weather with concomitant high pollutant concentrations contribute greatly to a change in the attitude of people, due to the higher discomfort levels. A hot and humid climate raises the irritation level in human beings which at times results in trivial confrontations resulting in flare up of human tempers. Furthermore In the summer, high moisture content during hot periods can lessen the body's ability to evaporate perspiration, possibly leading to heat stress. A Hot and Humid weather

induces a series of negative physiological responses from the body thus increasing the irritation level, reducing efficiency, greater energy loss ultimately leading to lower work performance. Thus it can be stated that holding of elections during these times of hot and humid climate will not only lead to lesser turnouts as the voters would not like to come out of their respective comfort zones, but the risk of a security or peace breach increases manifold. It is further respectfully submitted that if elections are held in summer months it is not only discomforting for the voters but also for the entire election machinery consisting of human beings. People are used to comforts of indoors, during summers because of various cooling machines and especially in urban India, so chances of such people venturing out in the scorching heat of 45 degrees braving the queues to vote is negligible thus leading to a lesser turnout. By holding elections in summer months the respondent commission is solely liable for making difficult conditions not only for the electors but also the people involved with the conduct of free and fair elections which may be a reason for lower voter turnouts in summer months.

14. That the mortality rates related to heat strokes have been on an increase. During the last general elections many polling officials in different states died while on polling duty. As many as 4 polling officers died in Madhya Pradesh, 2 in Orissa and so on. All living beings are extremely vulnerable to heat strokes. The severity of physical work causes greater stress on human beings and coupled with heat stress it only lowers the tolerance level in human beings leading to a tendency to fall sick. The security forces deployed on election duty are most affected by this stress, as many a times they are positioned in open areas with the sun above their heads. It is assumed that the forces always work in demanding situation; however, there is no reason to make their task difficult when it can be simply avoided by conducting elections during summer months.

16. That the stress caused to the polling officials as also that of the security personnel's is well known to the Respondent Election commission of India, as is evident from their Instruction manual on conduct of Elections which acknowledges the fact that the polling party gets fatigued and exhausted and tempers might run high

during their being unnecessarily held up for trivial reasons. That it is further submitted that the heat in summers would only add up to the woes of the already exhausted and fatigued polling officials resulting in scuffles and disruption, which in turn may lead to a situation where the electors would refrain from casting their ballots leading to a lesser turnout. The election commission of India also realises the same and that is the reason it chose to issue instructions related to the same. In their letter no. 464/INST/2008/EPS, dated 12.09.2008 addressed to the Chief Secretaries of All States/Union Territories & The Chief Electoral officers of all states and union territories, they have while issuing instructions on the subject Of Human Resource issues in the polling personnel management, stated as under:-

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INSTRUCTION SL NO. 30

Election Commission's letter No. 464/INST/2008/EPS, Date: 12.09.2008 addressed to The Chief Secretaries of All States/Union Territories & The Chief Electoral Officers of all States and Union Territories.

Subject: HR issues in the polling personnel management.

The conduct of election in a vast country like ours is a mammoth exercise. An efficient human resource management forms an essential part of the election management planning and execution. The personnel involved in the conduct of elections particularly the polling staff carry out their duty in challenging circumstances. However, the Election Commission of India has received feedback that enough efforts are not being made to provide basic facilities to enable the polling staff to deliver their work in a hassle free manner. The Commission considers the well being of the polling personnel to be one of the priority areas of election management. In order to ensure that the welfare of the polling personnel receives adequate attention of the District Election Officers and Returning Officers, the Election Commission of India has directed that the following instructions be followed without any deviation.....

The reception centre for polled election materials shall be managed efficiently and professionally. Here too, health care staff and equipments should be on duty and arrangement for refreshment, in a manner that would not disturb the receiving of EVM/other documents, should be meticulously planned. It is at this time that the polling party is fatigued and exhausted and tempers might run high. The polling personnel shall not be held up unnecessarily at the reception centre. The

reception centre should not be handled by the junior staff of the District Election Office alone and the senior officers shall remain physically present at the reception centre in order to ensure the effective handling of the reception centre. Once EVMs and other documents are handed over, the polling staff shall be relieved from the duty without any delay. Advance measures should be in place to ensure that transport facility including public bus service etc. is available for them to reach home at the earliest.....”

The Relevant Instruction as provided by the election commission of India under the RTI Act is being annexed herewith as **Annexure P-5**.

17. That a study by JS Cramer, and K Forrest, and subsequent report in 2006, published in Space and Environ Med Journal 77: 649-653 on Renal Lithiasis : addressing the risks of austere desert deployments reported that military troops deployed in hot, arid climate have demonstrated increased occurrence of kidney stones. The report further studies the association of heat exposure and dehydration. Dehydration increases the concentration of calcium and other compounds in the

urine, which facilitates the formation of kidney stones. Apart from causing renal problems high heat exposure often results in heat strokes, heat cramps involving painful cramping of muscles in the legs or abdomen, and result from electrolyte imbalance, particularly when plasma sodium level falls below normal, due to exertion along with profound sweating is also a common phenomenon attributed to high temperatures, therefore it is only expedient that elections are held in cooler months. With Global warming coupled with ozone and other pollutants the temperatures in summer months is only going to increase but the new found tendency of the Respondent Election Commission to conduct elections during summers is not only amusing but also seems irrational and against its own commitment to ensure larger voter turnout as also the Election Commission fails to realise the fact that most of the infectious diseases, as also disease like dehydration, cholera, diarrhoea, heat strokes, heat stress shows their ugly faces only in summers whereas winters are considered off season for Doctors.

18. That the respondent commission spends a lot of money on advertisements asking the electors to get themselves registered and also to come out and vote. However, by holding elections in the summer months they seem to lose sight of the fact that the electors tend to get disenchanted from coming out of the comfort of their homes to brave the scorching heat, line up in queues, many a times in a small room with no fans, no ventilation in a room full of people. This perhaps is the biggest reason for a lower voter turnout in the summer months. All this can be avoided and voter turnout increased if the elections were to be held in more conducive atmosphere, not only in terms of justness and fairness but also in the literal sense of more conducive “atmosphere”, meaning thereby if elections are to be held in cooler months.

19. That no doubt India is a vast country with extreme topographical conditions, and it will be difficult to arrive at a time which could be conducive for all the voters at the same time. Elections cannot be held in the month of March due to various examinations being held at that

time, April is the harvest time in the plains and holding of elections in that month will deny the majority of the population living in the rural areas as they would be busy cultivating their crops. May, June and July are extreme hot and humid months, August comes with its share of heavy rainfall, September to October is the sowing season, End of December to January it is extremely cold, so that leaves us with the month of November to Mid-December, and then the month of February. A careful perusal of the Annexure P-2 of this writ petition would show that the first time when the general elections were held in extreme hot month was in the year 1991 which resulted in a drastic fall of voter turnout. Then again in the year 1996, the turnout was low as the elections were held in the month of end April to May. The same turnout resulted in the year 2004, as again the elections were held in April-May. This fructifies the stand of the Petitioner vis-a-vis lower turnouts due to elections being held in summer months, but the Petitioner and the people at large are not able to comprehend that when the other democracies of the world are doing everything possible to increase their voter turnouts, by conducive scheduling of

elections, then why are we going backwards ? Even during the colonial era, the capital of the country used to shift during summers, even though the heat waves prevalent at these times due to global warming and other such factors is greater than what used to be then, various ailments and health hazards like malaria, cholera, dehydration show up during summers even then the respondent has been conducting election during summers resulting in a lower voter turnout. The best time of holding elections in India would be the months of January and February, when the weather transits from extreme winter to spring as the same would be conducive throughout the country, whether in the Hilly regions or the plains.

20. That there is acute shortage of scarce resource of water leading to people venturing out to distant places in search of it. This phenomenon is not limited to rural areas but also in urban municipalities including Delhi, where queues of people fighting over water can often be seen near any jhuggi cluster. This need only increase in the summer months and people attach higher priority to obtaining water which in turn may lead to ignorance of the

right to franchise, thus leading to a lower voter turnout. It would not be wrong to state here that people go out and travel for kilometres in search of water, the need of which intensifies even more during summers and therefore they tend to abstain from casting their ballots. A recent news published in the Times of India, on 17th February, 2011 fructifies the stand of the Petitioner as after a thorough study in the slums of Mumbai, it has been concluded that people leave their work and children leave school to fetch water. Under these circumstances their going to vote instead of going to fetch water, especially during summers when the need of water is more and the supply less is negligible thus leading to lesser voter turnouts. This lesser turnout can be curtailed by holding elections in winters or cooler months as the need for water is not as much as during summers. The paper cutting of the news item as published in the times of India is being annexed herewith as **Annexure P-6**.

21. That, the democratisation of the polity through regular elections was high on the agenda of the Constituent Assembly set up immediately after India's Independence in 1947. Given the fact that India had

meagre experience of elections during the British rule, given the fact also that a majority of its populace was illiterate and probably could not fathom the intricacies of voting, the question arose as to whether the electoral system should be based on adult franchise or on proportional representation as was in vogue in some of the countries whose constitutions were being avidly studied by the Founding Fathers. Adult franchise would overnight boost the strength of a manageable electorate of 35 million to a formidable and perhaps unmanageable 170 to 180 million. Eventually, the Constituent Assembly plumped for adult franchise as an act of faith. Even then when there was serious lack of experience of holding elections of such magnitude that the Election Commission held the elections in cooler months of October, December and February. Today, the size of the electorate too has risen steadily over the decades. From a massive 173 million in 1952, it now stands at a mind-boggling (700 million)-to be verified yet the respondent commission is holding elections in summer months due to which a large section of these electorates are not able to exercise their right to franchise, notwithstanding the fact

that a huge expenditure is involved in holding of elections, an expenditure which our poor and developing country can ill afford yet it is being done so that people are able to renew their faith in the efficacy of the parliamentary system and democracy as a whole and it is for this essential component of democracy that elections in our country are being held at such a huge expense. However, all this exercise, all these expenses become futile when people don't come out to vote. The Joke about Imagining a situation when there will be elections but no elector will come out to vote is fast becoming a reality and for this purpose it is essential that a conducive atmosphere is built for holding elections not only in terms of security and fairness but by holding the elections during the ore conducive winter or cooler months.

22. Declaration in terms of Rule 4 (2)

That the Petitioner states that no other petition or Writ Petition or case seeking the same relief has been filed before this Hon'ble court or any other court by the Petitioner.

23. Declaration in terms of Rule 6:

That the annexures produced alongwith this Writ Petition are true typed copies of their respective originals.

24. That the Petitioner being a public spirited person, has filed this Writ Petition in the larger Public interest and not for any personal gains and has filed the same based upon the following amongst other grounds:-

GROUND

A. Because holding of elections in summer months is not conducive as it results in lower voter turnouts thus leaving millions of eligible voters from casting their valuable vote the right for which has been guaranteed to them under the Constitution of India.

B. Because, the holding of elections in summer months is not only inconvenient for

the electors but also for the officials involved with the electioneering process.

C. Because, special arrangements have to be made by the respondent election commission for holding elections in summer months resulting in higher expenses and inconvenience for all.

D. Because the expenses involved with conducting of elections are very high and our country can ill afford such expenses, so efforts should be made to reduce the expenses, however, by holding elections in the summer months, the expenses are only increased.

E. Because, from the figures provided by the election commission it can be deduced that whenever elections are held in summer months the voter turnouts decrease drastically.

F. Because from the figures rendered by the election commission it can easily be seen that increase in expenses for holding election in summer months can go as high as 132.85 % when compared to expenses incurred in the preceding elections, which is very high and a waste of public money which could have been better utilised for other ore important purposes.

G. Because in summer months the efficiency of electors as also of the polling officials

decrease which may lead to breach of peace, and lead to lower turnouts.

H. Because in summers there is a bigger risk of the malfunctioning of Electronic Voting Machines so it is best avoidable to hold elections in summers.

I. Because, no Constitutional or other statutory requirement would come in the way of the Respondents for holding of elections in cooler months as the only two laid down criteria for holding elections is that First, it has to be taken care, that there is no gap of over (6) months, between the two sessions of the house. Second, there is also a provision for holding elections, before the (5) year tenure of the house expires and the same can be used,

in larger interest of democracy, as this shift will only be required once after which uniformity could be maintained, as elections are normally held after every 5 years.

J. Because holding of elections in summers denies a large number of people an opportunity to cast their votes as they are not in a position to venture out due to extreme high temperatures. This can be described as a systematic approach to keep the voters away from polling.

K. Because even a small fragment of increased voter turnout lead to a change in the outcome of election results until then the elections cannot be really called free and fair as also a small fragment of increase in voter percentage by 2 % also can translate

in higher voter turnout of over Two Hundred Lacs of votes and thus even if election were to be held in cooler months and would lead to just 2-3% higher turnout it would be more eligible voters than many a democracies' in the world.

L. Because, apart from the unsuitable weather extremities in the summer months there is also an increased risk of getting heat strokes, heat cramps, and other associated heat stress which may lower voter turnout.

M. Over the years there has been a sharp increase in the urban population of the country and by (2020) the size of urban population in India, is poised to be (50%) of

the total population in the country. Apart from lower income group, who has more important task of fetching water, than going to vote or needs to earn daily wages to support living - than to vote, the middle income group or the more prosperous households have become accustomed to the Air Conditioners/Air Coolers and Battery run invertors - to save them from the scorching heat and the chances of their braving 45 degree of day time temperatures to cast their vote is less.

PRAYER

That in the facts and circumstances of the case the Petitioner most respectfully prays that this Hon'ble Court may be pleased to :-

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- i.) Issue a Writ in the Nature of Mandamus directing the Election Commission of India to hold elections in the cooler months of January and February.
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ii.) Direct the Election Commission of India as also the Central Government to institute a committee to study the impact of summer elections vis-à-vis Lower Electors Turnouts as also the consequential rise in expenses for holding elections in summer months when compared to cooler months.

iii.) Appoint a commission to Study the cost impact of any election if the same was held in summer and winter of the same calendar year.

iv.) Issue any other Writ/order/direction that this court may deem fit and necessary in the facts and circumstances of the case.

PRAYER FOR INTERIM RELIEF :-

No interim relief sought.

Petitioner,

Drawn by :

Filed by:

Through,

Counsel for The
Petitioner
