

1 The Invisible Lawyer

SYNOPSIS

This Petition is filed under Article 32 of the Constitution to further the principle of access to courts, and particularly in advancement of right to information, which is a significant part of freedom of speech and expression guaranteed under Article 19(1)(a) of the Constitution of India.

A writ of mandamus is sought by way of this public interest petition from this Hon'ble Court to live stream and/or videograph the Supreme Court hearings of cases/proceedings of matters of constitutional and national importance that impact the public at large.

This would be in furtherance of the principle that justice should not only be done but seen to be done, and empower, and provide access to citizens who cannot personally come to court due to social, economic, health, or physical disability related constraints though the decision of the court will impact them. The provision of live streaming or video recording would enable them to have first hand information of case proceedings on issues of constitutional importance that affect them directly or indirectly.

Since 1994, proceedings from the Lok Sabha have been recorded in both audio and video format, and from 2003 a webcast has been ongoing of proceedings of Lok Sabha as well as Rajya Sabha. From 2004, these proceedings have also been telecasted on their respective television channels. This has facilitated the understanding of governance and functioning of democracy. There is no rational reason as to why proceedings of great public importance on public law should not be telecasted live.

2 The Invisible Lawyer

Live streaming of cases of national importance would also inspire public confidence in the judiciary, and bring transparency, and accountability in the administration of justice. Further, this would avoid the spread of misinformation, conscious disinformation, and misunderstanding of the role of the Court in these matters.

Perhaps, in the countervailing interests of privacy as in family law cases, or in the interests of witness testimonies in criminal matters, such live streaming or videography can be avoided.

Live streaming and/or recording of proceedings of matters of national importance will be of immense archival value, as well as a significant contributor to the educational role of the judiciary.

Apex Courts of many common law countries, and international forums, such as United Kingdom, Canada, New Zealand, Australia, South Africa, European Court of Human Rights, International Criminal Court, Inter-American Court of Human Rights, International Criminal Tribunal for the Former Yugoslavia, have devised differing means for recording, broadcasting, or live streaming their proceedings for the public.

The live streaming of such proceedings would be in consonance with the principle of open court established under Article 145(4), and in furtherance of fundamental right of access to justice under Article 19(1)(a). It would be in keeping with the judgment of the nine judge bench in **Naresh Shridhar Mirajkar and Ors. v. State of Maharashtra and Another AIR 1967 SC 1**, where it was held that, *“Public confidence in the administration of justice is of such great significance that there can be no two opinions on the broad proposition that in discharging their functions as judicial*

3 The Invisible Lawyer

tribunals, courts must generally hear causes in open and must permit the public admission to the court room.”

Pending the availability of the infrastructure for live streaming, issue a writ of mandamus or direction directing the Respondent-1 representing Chief Justice and Judges of the Supreme Court court to record the proceedings of the court in matters of constitutional and national importance that impact the public at large and to upload these on its own YouTube channel which must be created, and would qualify for live streaming till the time the facility of live streaming is arranged. Such a channel would be cost effective and can be immediately put in place until arrangements are made for live streaming from infrastructure in Court. Cases of national importance currently listed before the Constitution Bench are:

1. K. S. Puttaswamy v. Union of India (W. P. (C) No. 494/2012): A group of petitions challenging the Aadhaar Act, 2016 have been put before the Constitution Bench, hearing for which is scheduled in January, 2018.
2. Indian Young Lawyers Association v. State of Kerala (W. P. (C) No. 373/2006) : The right of women to enter the Sabrimala Temple in Kerala has also been referred to the Constitutional Bench.
3. Navtej Singh Johar v. Union of India (W. P. (Crl) No. 76 of 2016): Referral to a larger bench for the reconsideration of Suresh Koushal v. Naz Foundation, and the curative petition on this issue of decriminalization of Section 377 of IPC.
4. Joseph Shine v. Union of India (W.P. (Crl) 194/2017): The case

4 The Invisible Lawyer

challenging the adultery provision in the IPC, Section 497 as being violative of Article 14. This case has now been referred to a Constitution Bench for consideration.

5. Goolrukh Gupta v. Sam Rusi Chothia & Ors. (SLP (C) No. 18889 of 2012): The case of a Parsi daughter to attend the funerals of her father, scheduled for January, 2018.

Other important cases include but are not limited to:

6. Swatija Paranjpe v. State of Maharashtra (SLP Civil No. 24602 of 2016): The case challenging the laws prohibiting slaughter of bulls and bullocks and consumption of beef is set for February, 2018. This case raises issues inter-alia of right to food of choice.
7. Nyayadhar v. Union of India, Ministry of Home Affairs and Ors. (W.P.(Crl) No. 156 of 2017): A judgment that provided guidelines to ensure that there is no misuse of Section 498A of IPC has been decided to be reconsidered by the Supreme Court.

It is in national interest to live stream hearings in all of them, making for access to justice for all citizens of India which itself is a fundamental right.

LIST OF DATES AND EVENTS

DATES	EVENTS
18 th April, 1994	Commencement of audio and video recordings of proceedings from Lok Sabha
1995	Pilot project in Canada to live televise proceedings of two cases of Canadian Supreme Court on Canada Parliamentary Affairs Channel

The Invisible Lawyer

11th December, 2003	Commencement of webcast of proceedings of Lok Sabha and Rajya Sabha
September, 2004	New Zealand issues Supreme Court guidelines for recording of proceedings
14th December, 2004	Commencement of telecast of Lok Sabha and Rajya Sabha proceedings through satellite television channels
2005	UK permits broadcasting of proceedings from their Supreme Court under Section 47 of the Constitutional Reform Act, 2005
February, 2009	Webcast of appeals of Canadian Supreme Court began
2009	Proceedings of the Inter-American Court of Human Rights to be audio recorded as per Rules of Procedure of the Inter American Court of Human Rights
2013	Began recording of full court proceedings of the High Court of Australia in audio-visual format, which are then available on their website
2013	UK permits broadcast of proceedings of courts other than the Supreme Court as per the discretion of the Lord Chancellor or Chief Justice under the Crime and Courts Act, 2013
2014	Public Consultation on In Court Media Coverage conducted in New Zealand, and presented to Chief Justice of Supreme Court of New Zealand
2015	UK amends Practice Direction 8 to permit

6 The Invisible Lawyer

broadcasting of court proceedings if it does
not affect the administration of justice
2016 New Zealand's In Court Media Guidelines,
2016 provide for in court filming and
recording of court proceedings apart from
those of the Supreme Court
18th January, 2018 Hence the present Writ Petition.