

IN THE HON'BLE HIGH COURT OF JUDICATURE
AT MADRAS, MADURAI BENCH
(Special Original Jurisdiction)

W.P. (MD). No. of 2025

Mr. S. Chenthil Vinu,
S/o Mr. Selvamani,
1-52, Aluvilai, Chemponvilai,
PIN 629804, Kalkulam Taluk,
Kanniyakumari District,
Tamil Nadu State, India.

... Petitioner

-Vs-

- 1) Union of India
Rep by the Foreign Secretary,
Ministry of External Affairs,
3, Circular Road, Chanakyapuri,
New Delhi 110021.
- 2) The Ambassador,
Embassy of India,
B-1, Diplomatic Quarter,
P.O.Box No. 94387, Riyadh- 11693,
Kingdom of Saudi Arabia.
- 3) The Protector General of Emigrants,
10th Floor, Akbar Bhavan,
Chankyapuri, New Delhi - 110021
- 4) The Protector of Emigrants,
Rayala Towers, Tower 2,
4th Floor, Anna Salai,
Chennai – 600078.
- 5) The Chief Secretary to Government,
Secretariat, Chennai 600009.
- 6) The Principal Secretary to Government,
Public Department,
Secretariat, Chennai 600009.
- 7) The Director,
Commissionerate for Rehabilitation and
Welfare of Non Resident Tamils,
4th Floor, Ezhilagam Annex Building,

Chepauk, Chennai 600005, Tamil Nadu.

8) The Legal Aid Cell for Non Resident Tamils,
Commissionerate for Rehabilitation and
Welfare of Non Resident Tamils,
4th Floor, Ezhilagam Annex Building,
Chepauk, Chennai 600005, Tamil Nadu.

9) The District Collector,
Nagercoil 629001,
Kanniyakumari District,
Tamil Nadu State.

... Respondents

AFFIDAVIT OF THE PETITIONER

I, Mr. S. Chenthil Vinu, S/o Mr. Selvamani, Hindu aged about 38 years having permanent address at 1-52, Aluvilai, Chemponvilai, PIN 629804, Kalkulam Taluk, Kanyakumari District, now come down to Madurai do hereby solemnly affirm and sincerely state as follows:-

1. I submit that, I am the petitioner herein. I am personally acquainted with the facts deposed to hereunder.

2. I submit that, I am filing this writ petition praying to issue a WRIT of MANDAMUS or any other writ, order or direction in the nature of writ directing the respondents to consider my representations dated 09.11.2024 and 31.01.2025 praying to take action to find out the whereabouts of my brother/ Mr. Vijai Mon, languishing in Prison at Saudi Arabia being arrested on a falsely implicated case without any access to information and documents connected to his case, directing the 2nd and 8th Respondent to ensure legal assistance on government expenses from Indian Community Welfare Funds by engaging an

Advocate, to present on behalf of my brother/ Vijai Mon and to obtain the documents related to his case from the competent authorities of Police, Judicial Courts and Prison under Government of Saudi Arabia, for early release from Prison, in light of the Order dated 27.07.2016 vide Letter No. 22419/RH-I/2016-5 passed by the Public (RH.I) Department and Press Release No. 385 dated 27.07.2016 issued by News & Public Relation Dept at Tamil Nadu, on a similar case of three Indians sentenced to death/ life imprisonment at State of Qatar.

3. I submit that, the Indian Migrant Worker Mr. Vijai Mon, aged 28 years, is my brother, who has been recruited for the job of helper in building construction work by the Indian Recruiting Agent Mr. Thirumal. After that, Mr. Vijai Mon migrated to Kingdom of Saudi Arabia on 14.05.2018 for the said purpose of employment.

4. I submit that, on 07.06.2021, Mr. Vijai Mon has been arrested by Saudi Police on a falsely implicated case and was found to be in Prison at Saudi Arabia. Several times, we have raised the issue before the Embassy of India at Saudi Arabia and before the Commissionerate for Rehabilitation & Welfare of Non Resident Tamils at Chennai and has requested to ensure legal assistance for Mr. Vijai Mon, and so far, no action has been taken. Till date, the family of Mr. Vijai Mon has no access to any documents connected to the criminal case from the Police, Judicial Courts, Prison Department and other Authorities under the Government of Saudi Arabia. Since, we are from a economically

backward family and my brother at Saudi Jail is the only bread winner of the family, where we are in a pathetic situation by not able to meet out the huge legal expenses towards this case.

5. I submit that, this grievance is registered over MADAD Portal managed by the Ministry of External Affairs on 17.06.2022 vide Grievance ID: SB2PRA107957022, very before three years.

6. I submit that, I have send a Petition dated 09.11.2024 to all the Respondents praying to:

- A) To pass orders to the Competent Authorities at the Embassy of India at Saudi Arabia,
 - a. to take up the matter before the Saudi Ministry of Foreign Affairs to verify and confirm the present status of the case,
 - b. to apply and obtain the documents connected to the case of Mr. Vijai Mon from Offices of the Competent Authorities of the Police Department, Judicial Courts, Immigration Department at Saudi Arabia and
 - c. to ensure free legal assistance on the expenses of Government of India by way of Indian Community Welfare Fund (ICWF), by engaging an Advocate to present the case of Mr. Vijai Mon before the Competent Authorities of the Police Department, Judicial Courts, Immigration Department at Saudi Arabia.
- B) To pass orders to the Foreign Secretary and Protector General of Emigrants, to identify the actual Foreign Employer through the Indian Recruitment Agent, who has recruited the Migrant Mr. Vijai Mon for the helper job, and to insist them to resolve the issue, accordingly.

7. I submit that, I have registered the same case in Grievance No. GR158727 dated 09.11.2024 at the eMigrate Portal managed by the Overseas Employment Division of Ministry of External Affairs. Further, the same grievance is registered over Centralized Public Grievance Redress and Monitoring System (CPGRAMS) in Grievance Nos. MEAPD/E/2024/0008249 dated 09.11.2024 and MEAPD/E/2025/0000834 dated 31.01.2025.

8. I submit that, I have sent a petition dated 31.01.2025 towards the 6th, 7th & 8th Respondents/ Legal Aid Cell for Non Resident Tamils praying as below:

A) The Principal Secretary to Government for Public Department at Chennai to pass Orders towards the Commissionerate for Rehabilitation and Welfare of Non Resident Tamils and it's Legal Aid Cell for Non Resident Tamils to ensure free Legal Aid on the expenses of Government of Tamil Nadu, for the innocent Indian migrant/ Vijai Mon languishing at Saudi Jail, as done in the case of three Indian Nationals sentenced to death by the Qatar Judicial Court in line with the Press Release No. 385 dated 27.07.2016 issued by News & Public Relation Dept at Tamil Nadu.

B) To pass orders to the Competent Authorities at the Embassy of India at Saudi Arabia,

- a. to take up the matter before the Saudi Ministry of Foreign Affairs to verify and confirm the present status of the case,
- b. to apply and obtain the documents connected to the case of Mr. Vijai Mon from Offices of the Competent Authorities of the Police Department, Judicial Courts, Immigration Department at Saudi Arabia and

c. to ensure free legal assistance on the expenses of Government of India by way of Indian Community Welfare Fund (ICWF), by engaging an Advocate to present the case of Mr. Vijai Mon before the Competent Authorities of the Police Department, Judicial Courts, Immigration Department at Saudi Arabia.

C) To pass orders to the Foreign Secretary and Protector General of Emigrants, to identify the actual Foreign Employer through the Indian Recruitment Agent, who has recruited the Migrant Mr. Vijai Mon for the helper job, and to insist them to resolve the issue, accordingly.

9. I submit that, the Indian Embassy at Saudi Arabia has informed that, the Ministry of Foreign Affairs of the Kingdom of Saudi Arabia has updated the below information at the CPGRAMS Portal, which is stated as below:

“Mr. Vijaymon Pauldas (Passport No. P4133328) was detained in Al Hasa on 02.05.2022 for assault and murder case. A court judgement has been issued sentencing him for 20 years imprisonment. In Saudi Arabia, the criminal justice system is based on the Shariah law. According to this law, a punishment has two components – (i) Public Rights (punishment for the crime) and (ii) Private Rights (compensation to the victims). In any case, involving both public and private rights, an inmate/detainee has to fulfil both the components of punishment. As soon as an inmate/detainee completes the awarded jail term (public rights) and settles the private rights, he/she is deported back to India.”

10. I submit that, the purpose of Indian Community Welfare Fund is well defined by the Union Ministry of External Affairs in its website vide url <https://www.mea.gov.in/icwf.htm> which is stated as below:

a. Indian Community Welfare Fund (ICWF)

- i. *The Indian Community Welfare Fund (ICWF), set up in 2009, is aimed at assisting Overseas Indian nationals in times of distress and emergency in the 'most deserving cases' on a 'means tested basis'. ICWF has also been a critical support in emergency evacuation of Indian nationals from conflict zones, countries affected by natural disasters and other challenging situations. In view of its immense utility, ICWF stands extended to all Indian Missions and Posts abroad.*
- ii. *The ICWF guidelines have been revised further to make them more broad-based and expand the scope of welfare measures that can be extended through the Fund. The revised ICWF guidelines have become operational w.e.f. September 1st, 2017 following the approval of the Union Cabinet. They are expected to provide Indian Missions and Posts abroad greater flexibility in swiftly addressing to requests for assistance by Overseas Indian nationals. The revised guidelines cover the following three key areas :*

b. Assisting Overseas Indian nationals in distress situations

- i. *Boarding and lodging for deserving distressed Indian nationals abroad on a means tested basis in budget category or shelters run by Mission/Post or NGOs empanelled with Mission.*
- ii. *Air passage to India to stranded Overseas Indian nationals*
- iii. *Legal Assistance on a means tested basis to deserving overseas Indian nationals who have committed minor crimes, offences or have been falsely implicated by their employer and put in jails; fishermen/seamen/sailors/Indian students in distress;*
- iv. *Legal/financial assistance to Indian women abandoned/ cheated / abused by their NRI/PIO or foreign spouses (up to seven years after their marriage.*
- v. *Payment for small fines and penalties in respect of Indian nationals for minor offences/crimes; for illegal stay in the host country where prima facie the worker is not at fault, and to enable release of Indian nationals from jail/detention center*
- vi. *Transportation of Mortal Remains and expenditure on incidentals of deceased Indian national to India or local*

cremation/burial of deceased in such cases where the employer, sponsor or insurance company is unable or unwilling to do so as per the contract and the family is unable to meet the cost.

vii. Emergency Medical Care on means tested basis to overseas Indians who are involved in an accident (with serious life threatening injuries) have life-threatening medical conditions or suffer a serious disability.

c. Support for Community Welfare activities

i. Indian Missions and Posts abroad, subject to availability of funds, may incur expenditure on community activities pertaining to the Indian community such as:

ii. To promote Indian Culture by organizing cultural programmes by recognized Indian Diaspora organizations at major Indian Festivals, National Days of India; Indian culture Programs by recognized local artists or Indian artists based in India etc.

iii. Payment of honorarium for teachers/faculty teaching Indian languages, art forms.

iv. Welfare activities for Indian students towards organizing Annual Day for Indian students at Universities/educational institutions to discuss

problems, issues faced by Indian students, including their visa, residence status, work permit, financial, welfare and other issues with participation of students.

d. Improvement in Consular services

Indian Missions and Posts abroad, subject to availability of funds, may incur administrative expenses pertaining to schemes/welfare measures etc. for the following purposes

- i. Hiring of limited additional staff for rendering various consular services*
- ii. Hiring vehicles on a need basis for visits to jails, police stations; detention centres; labour camps; welfare camps; shelters for distressed Indians; prisons; hospitals; morgues and to airports for deportation/repatriation of distressed Indian nationals.*
- iii. Hiring of local interpreters on a case-to-case basis for consular visits.*
- iv. Design, publication, translation costs of pamphlets by Mission/Post about local labour laws, regulations, norms, dos & don'ts, welfare measures pertaining to overseas employment in the host country.*
- v. Organizing labour camps / consular camps for interacting with Indian migrant workers and informing them about issues related to overseas employment;*

labour laws; welfare and protection measures of the government.

- vi. Setting up 24 x 7 toll-free helplines, walk-in resource centres for providing information, advise, guidance on problems faced by distressed Indian nationals; and helping them register their grievance with the Mission/Post.*
- vii. Development of e-Governance solutions, applications to address Consular/ welfare matters.*

e. Criteria for Utilisation

- i. ICWF funds can be used to assist only Indian citizens residing in the host country or those in distress while visiting a foreign country. Persons of Indian Origin and Overseas Citizens of India Card Holders are not eligible for individual financial assistance from ICWF.*
- ii. ICWF can be utilized for the benefit of Indian nationals in distress on a means tested basis provided the officer approving ICWF expenditure has satisfied himself that the beneficiary deserves to be assisted.*
- iii. Ordinarily, only such Indian National(s) who have entered the host country legally shall be eligible to receive benefits under this Fund. In cases where it is not so, assistance may be provided after the Head of*

Mission/Head of Post has recorded his satisfaction to the effect that the circumstances of the case necessitate providing assistance under ICWF.

11. I submit that, the Balance of Indian Community Welfare Funds (ICWF) as on 31.03.2024 is disclosed by the Ministry of External Affairs at New Delhi in website <https://www.mea.gov.in/Images/CPV/LS-63-26-07-2024-en-1.pdf> and the Balance of ICWF Funds with the Embassy of India at Saudi Arabia is Rupees Thirty Five Crores, Twelve Lakhs, Seventy Two Thousand, Nine hundred and Twenty nine. (Rs. 35,12,72,929/-).

12. I further submit that, the Embassy of India at Saudi Arabia has sufficient ICWF Funds and the Expenditure under Indian Community Welfare Funds (ICWF) towards Legal Assistance by Embassy of India at Saudi Arabia for the Period from 2019 to March 2024 is disclosed by the Ministry of External Affairs at New Delhi in website <https://www.mea.gov.in/Images/CPV/LS-63-26-07-2024-en-2.pdf>, where it stated as below:

	2019	2020	2021	2022	2023	March 2024
Mission	Expenditure in INR	Expenditure in INR	Expenditure in INR	Expenditure in INR	Expenditure in INR	Expenditure in INR
Jeddah	0	25,666	2,40,562	0	0	0
Riyadh	0	0	0	0	10,15,873	0

13. I submit that, the Commissionerate of Rehabilitation and Welfare of Non Resident Tamils at Chennai, under the Public Department, has informed through their website: <https://nrtamils.tn.gov.in/pages/view/Legal-Services> as the Hon'ble Tamil Nadu Chief Minister announced in a press release on 06.10.2021 that a separate “**LEGAL AID CELL**” will be set up for the Tamils who have migrated abroad, by prescribing the Objectives, Procedure and Eligibility for Legal Aid stated as below:

Objectives:

A) People who go to work like that are arrested by the police in destination countries for the following reasons:

- a. Going to work on a tourist visa.
- b. Staying in foreign countries even after visa expired.
- c. Absence of proper documents.
- d. Charges against recruitment agencies to police.
- e. Workplace accidents/road accidents.

B) In these times, they need to take the case to the courts in foreign countries and also the following problems faced by the Tamils during the foreign employment :

- a. Not provided assured work
- b. Not provided assured salary
- c. Forced to work overtime
- d. Not allowing to avail the leaves

- e. Non-repatriation even after completion of employment contract
- f. Denial of legal rights to workers

Procedure for Legal Aid:

- a. A Legal Consulting Firm will be engaged by the board who are familiar with international law as legal advisors.
- b. Persons familiar with the law of the concerned countries (para legal volunteers) will be selected as legal coordinators with the help of Indian embassies in the respective countries.
- c. The legal coordinators so selected should know the local language of the respective countries and Tamil language.
- d. They will act as liaison between victims, advocates and Indian Embassy.
- e. Panel of lawyers who will provide free legal assistance / pro-bono basis will be selected, and if necessary, lawyers on the retainer ship fee basis will also be selected.

Eligibility for Legal Aid:

- a. Those who have gone abroad for study and work and who face legal crisis for the crime they did not commit.
- b. Cases of arrears of salary, physical assault etc. against the employer while working in foreign countries.
- c. False cases pursued intentionally by the employer

- d. Cases relating to compensation to persons who die / get injured due to accidents in foreign countries.
- e. Mercy Petitions of persons convicted for offenses not committed.
- f. Any other on case to case basis.
- g. Victims themselves must pay their own legal aid fees except in special cases where the Government based on the recommendation of the District Collector will provide legal fees for a prescribed maximum amount.

14. I submit that, there is no appropriate action from the 2nd Respondent/ Embassy of India at Saudi Arabia and 8th Respondent/ Legal Aid Cell for Non Resident Tamils to obtain the documents related to the falsely implicated case against Indian Migrant Worker Vijai Mon connected with the Police, Judicial Courts and Prison Department. Further, it is learnt that the NRI Victim/ Vijai Mon languishing in Jail has been forcibly made to sign various documents printed and written in Arabic by Saudi Authorities, where the innocent victim/ Vijai Mon does not know Arabic Language and he knows only Tamil Language. Further no action is taken by the 2nd & 8th Respondent to ensure legal assistance by engaging an advocate to present his case before the Authorities in Police, Judicial Courts and Prison at Saudi Arabia, to prove his innocence.

15. I submit that, in a similar case, the Government of Tamil Nadu has passed an Order to pay an amount of Rupees Nine Lakhs, Fifty Thousand (Rs. 9,50,000/-) to the Embassy of India at Qatar for filing an appeal in the Qatari Supreme Court to defend the three Indian Tamil migrants sentenced to death/ life imprisonment by Order dated 27.07.2016 vide Letter No. 22419/RH-I/2016-5 passed by the Public (RH.I) Department and published Press Release No. 385 dated 27.07.2016 by News & Public Relation Dept at Chennai.

16. In the above circumstances I have no other alternative or efficacious remedy other than filing this writ petition under article 226 of the Constitution of India.

17. I have not filed any other writ petition case before this honourable court or any other court praying for the same or similar relief.

18. It is therefore prayed that this honourable Court may kindly be pleased to issue a WRIT of MANDAMUS or any other writ, order or direction in the nature of writ directing the respondents to consider my representations dated 09.11.2024 and 31.01.2025 praying to take action to find out the whereabouts of my brother/ Mr. Vijai Mon, languishing in Prison at Saudi Arabia being arrested on a falsely implicated case without any access to information and documents connected to his case, directing the 2nd and 8th Respondent to ensure legal assistance on government expenses from Indian Community Welfare Funds by engaging an Advocate, to present on behalf of my

brother/ Vijai Mon and to obtain the documents related to his case from the competent authorities of Police, Judicial Courts and Prison under Government of Saudi Arabia for early release from Prison, in light of the Order dated 27.07.2016 vide Letter No. 22419/RH-I/2016-5 passed by the Public (RH.I) Department and Press Release No. 385 dated 27.07.2016 issued by News & Public Relation Dept at Tamil Nadu on a similar case of three Indians sentenced to death/ life imprisonment at State of Qatar and pass such further or other orders as this honourable court may deem fit and proper in the facts and circumstances of this case and thus render justice.

Solemnly affirmed and signed
his name in my presence on
this the 25th day of April 2025
at Madurai after having understood
the contents of this Affidavit.

Before Me

Advocate