



PRAVASI LEGAL CELL

Empowering People on Legal Front

Reg. No. 0409/2011

ACTIVITY REPORT 2018-19



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Pravasi Legal Cell is a Non-governmental Organization working with the objective of empowering people with the power of law. PLC is a group of retired Judges, Lawyers, Social Activists, Journalists and inspired citizens of India, constituted to provide possible legal help to the poor and the needy, who cannot afford to voice their concerns otherwise, and to empower them on the legal front.

PLC was inaugurated on February 01, 2009 and in the last ten years of its existence has positively intervened to secure justice for many. PLC aims at protecting the vitality and dignity of human life irrespective of caste, creed, colour, religion, language, gender, place etc. and to safeguard the constitutional and legal rights of the common man.

Along with turning the actual wheels of justice, PLC is also committed to spreading legal awareness among the public through various modes. Seminars, Workshops, Discussions and Niyamavedis are regularly conducted in association with various governmental and non-governmental organizations. The purpose of these initiatives is to make people recognize their rights in different walks of life and educate them about various ways of approaching the justice distribution system. At PLC, we believe empowerment comes through awareness and knowledge about one's rights and the laws protecting them.

Report: 2018-19

In the year 2019 Pravasi Legal Cell completed ten years of its existence. It has been a decade of relentless fighting for securing justice for the voiceless and PLC has been a source of relief to many directly and indirectly. A decade of performance is a herald for further growth and we have expanded the scope and reach of our initiatives. The past year will be marked as another eventful period in the history of PLC.

A decade of performance is a message for further growth and we have expanded the scope and reach of our initiatives. We could intervene more effectively in different policy matters like RTI, Repatriation of mortal remains, NRI marriages, University admission processes, ICWF etc. and make positive impact in the lives of many inside and outside the country.

In the past year, we could include foreign citizens in distress in the country into the fold of our beneficiaries. We could work in close association with a few Embassies to secure justice for their citizens in the country.

The year also saw results for our expansion and consolidation efforts. New international Coordinators, Regional and Country Heads were appointed across the globe to make the functioning of PLC more effective and organized. Different state chapters were also constituted across the country to make PLC a true national effort.

2018-19 will be another memorable year in the life of Pravasi Legal Cell. Below mentioned are a few major initiatives and efforts of PLC. Care has been taken to include all the policy level interventions of PLC in the past one year. Most of the regular activities have been excluded except for a few for representational purposes.

Appreciating and looking forward to have your continued goodwill and support.

Secretary

(Dr. Bins Sebastian)

Activities in the Year 2018-19

Memorandum submitted to MEA regarding the issue on Repatriation of Mortal Remains

July 28, 2018: Pravasi Legal Cell submitted a memorandum to Smt. Sushma Swaraj, the Honourable External Affairs Minister, seeking her immediate intervention to frame guidelines for free repatriation of mortal remains of Indians dying abroad.

The memorandum pointed out that currently bringing mortal remains back to India is unregulated and a costly affair, unbearable for most of the Indian emigrants. The airlines charging exorbitant fees make repatriation extremely difficult for the Indian emigrants. The memorandum also brought to the attention of the ministry the inhuman and unethical practice of weighing dead bodies to fix their transportation costs by the airlines. It amounts to the violation of Article 21 of the Constitution of India, which guarantees decent and dignified treatment even to dead bodies.

Even a few Asian countries, including Pakistan and Bangladesh, have provisions to carry the mortal remains of their citizens back to the country free of cost. Pravasi Legal Cell petitioned the Ministry of External Affairs to take considerate view of this best practice and simulate it in the best interests of the Indian citizens abroad.

Pravasi Legal Cell also brought to the Minister's notice a PIL that the Legal Cell had filed in the Delhi High Court against a circular issued by the national carrier, Air India, demanding 48 hours prior notice for carrying mortal remains of Indians dying abroad back to India. The petition is under the review of the honorable Court. PLC requested the ministry to direct Air India to withdraw the said circular.

Arbitrary Admission Policy of Delhi University Challenged

August 11, 2018: Pravasi Legal Cell took up the issue of arbitrary and irrational admission policy followed by the University of Delhi to its various Arts and Humanities undergraduate programmes to the attention of the Delhi High Court.



दिल्ली विश्वविद्यालय
University of Delhi

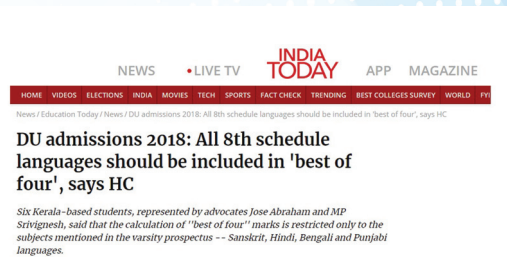
As per the prevailing admission policy of the University, the calculation of the “best four” marks, based on which admissions

are done to various Arts and Humanities courses, is restricted only to those subjects mentioned in the common prospectus of the University. Unfortunately, the list includes only Sanskrit, Hindi, Bengali, and Punjabi among Indian languages and excludes all other Indian languages mentioned in the 8th Schedule of the Constitution of India.

If any subject other than those mentioned in the said list is included in the calculation of “Best four” marks, there is a deduction of 2.5 % in the aggregate score. This causes much discomfiture for those students who have opted their regional language for the board exams as elective subjects and have scored highly on the same.

The illogical and arbitrary exclusion of most of the regional languages by a Central University is an infringement on the fundamental rights guaranteed under Article 14, Article 19, Article 21 and Article 29 (2) of the Constitution of India, the petition noted. Despite of several requests, protests, and even a letter written by Shri. Pinarayi Vijayan, Chief Minister of Kerala, to the Prime Minister and the MHRD Minister, there was no response from the University.

University has blatantly ignored this discrimination on linguistic grounds to students travelling all the way from far south and far east of the country with the dream of studying in India's premier colleges. It was in this context, that students and various student organisations approached Pravasi Legal Cell with the objective of fighting their cause. Accordingly, the Legal Cell raised this matter before the honourable High Court of Delhi by way of a writ petition with the prayer to issue a direction to the university to include all the languages in the Eighth Schedule to the Constitution as part of the list of subjects considered by the university for calculation of the 'best of four' marks, which determines the aggregate score for admission.



Later, the Delhi High Court issued notices to Delhi University and the Government of India on this petition filed by the students demanding University's response on its arbitrary and irrational selection criteria for the undergraduate courses.

Hospital Issues Experience Certificate, After Legal Action by Pravasi Legal Cell

September 9, 2018: An Indian Nurse troubled in Qatar due to the negligence of the HR officials of a private hospital in Delhi, gets relief after the intervention of Pravasi Legal Cell. The petitioner was a former nurse of Max Super Speciality Hospital, Delhi and later joined a firm in Qatar. While joining the new job, submitted an experience certificate issued by the Delhi Hospital along with all other educational and personal documents.

His troubles began when Dataflow, an international verification agency,

contacted the hospital for verifying the authenticity of his work experience certificate and the hospital officials erroneously reported that it was not issued by them. On receiving this report from the previous employer, the new office issued the petitioner with a show cause notice. He immediately contacted the hospital management with proper documents, but the hospital refused to entertain his plea or to rectify the error.

Forging of documents for employment is considered a serious crime and this can be a reason for loss of employment, imprisonment, and even for being blacklisted from employment in other foreign countries. Though he approached the hospital by explaining these threats to his life and livelihood, and even made a representation to the Indian Mission in Qatar, nothing worked to his benefit. Finally, he approached Pravasi Legal Cell and sent a legal notice through Adv. Jose Abraham, its President, categorically stating that the hospital will solely be responsible for any damage that he suffers due to the laxity of its officials.

Subsequently, the hospital responded to the notice by acknowledging that he was a former employee of the hospital and issued a fresh work experience certificate. Having completed the verification of certificates successfully by Dataflow, the petitioner is confirmed in the job and is working with the new employer without any threat or legal trouble.

Legal Cell approaches Delhi Police regarding Online Job Fraud

September 16, 2018: Pravasi Legal Cell has been receiving numerous complaints from people cheated by online job scammers. In one such case, a young woman who was duped was helped to approach the Delhi Police in this regard.

The petitioner came across a highly attractive nursing job advertisement in the United Kingdom on the popular job portal www.naukri.com and

applied for the same, sending to the employer filled in forms and other documents. She, on being “selected”, was asked to make a refundable deposit amounting to about Rs.70000/-. Later, more money was demanded on different pretexts. Sensing danger, she declined any further payment and was informed that the application has been rejected as she could not make the complete payment within the stipulated time.

When her attempts to get the amount refunded or contact the “employers” failed, she approached Pravasi Legal Cell. Since the payment was made into an Indian bank account PLC initiated legal action to help the petitioner get her money back. A compliant was filed with the Delhi Police Commissioner, seeking action against the culprits and assistance in getting the money back.

This is not an isolated case and many Indians are getting cheated on similar grounds, though the modus operandi of the fraudsters differs. PLC makes it a point in all its training and awareness building sessions on safe emigration to educate the aspiring emigrants to verify the credentials of the potential recruiters before making any payment or sending them any confidential documents.

Memorandum Submitted to Ministry of Personnel, Public Grievances and Pensions Regarding Exclusion of NRIs from RTI Act, 2005

September 18, 2018: Pravasi Legal Cell submitted a memorandum to Dr. Jitendra Singh, Minister of State, Ministry of Personnel, Public Grievances and Pensions, Government of India, regarding the exclusion of NRIs from the rights provided under the RTI Act.

It was as a part of our becoming a mature and responsible democracy that the Right to Information Act was enacted by the Indian parliament in

2005. The RTI Act has been an empowering law and with the help of this tool, citizens of our country have contributed much to make governance transparent and accountable.

The Non-resident Indians have taken the great legacy of our country and culture to distant lands. They have worked hard on foreign lands, away from the comfort zones of their homeland and have been earnest contributors to the nation-building process in India. And it was a saddening fact to know that the NRIs are not entitled to use the beneficial legislation of RTI for seeking information relating to matters concerning the governance of the country.



This announcement came as a response by the Minister to a question in the Parliament on 08.08.2018 wherein it was stated by him that “Only citizens of India have the right to seek information under the provisions of RTI Act, 2005. Non- Resident Indians are not eligible to file RTI applications”.

Pravasi Legal Cell pointed out in the memorandum that the above said stand taken by the Ministry violates the constitutional provisions as it violates the legitimate legal rights of Indians settled abroad. The RTI Act guarantees every citizen of India with the right to seek information under the Right To Information Act, 2015. In this regard, Pravasi Legal Cell prayed that the Ministry should take a considerate view of this matter and consider taking necessary steps to ensure that non-resident Indians are not excluded from the rights guaranteed by the RTI Act, 2015.

Airlines' Policy on Repatriation of Mortal Remains Challenged

October 5, 2018: Pravasi Legal Cell challenged through a Public Interest Litigation before the Delhi High Court the illegal and arbitrary practice of weighing mortal remains and charging for its transportation accordingly by airlines. In the PIL, PLC sought guidelines to regulate the practice of carrying dead bodies of Indians dying abroad.

Currently, the airlines including Air India treat human remains as cargo and charge the shipping of the same accordingly. Apart from accusing airlines of violating human dignity through this practice, there is also allegation about the exorbitant rates that AI charges for repatriation of mortal remains.

Recently Air India was in news regarding its cancellation of the 50% discount that was applicable on transportation of mortal remains from UAE to India. With this, the charges increased to about eighty thousand rupees for carrying a dead body back to India from the UAE, which is unbearable for most of the low-paid Indian emigrants. The petition pointed out that the callous practice of weighing dead bodies and fixing transportation rates as per weight is a gross violation of Article 21 of the Indian Constitution.

The authoritative pronouncement of the Supreme Court recognizes the protection under article 21, which ensures right to dignified life, as extended to even dead bodies. The PIL stated that that the national carrier failed to recognize posthumous legal rights of the dead. This was not the first time that the expats were put in distress with regard to repatriation of mortal remains.

Earlier in 2017, Air India had made mandatory a 48 hour prior intimation to the health officer of the airport, of the importation of the mortal remains. This had caused much trouble to the families of the dead by causing

Outlook

THE NEWS SCROLL

08 OCTOBER 2018 Last Updated at 7:27 PM | SOURCE: PTI

PIL on airlines' policy on repatriation of Indian emigrants' mortal remains: HC seeks Centre's stand



New Delhi, Oct 8 The Delhi High Court on Monday sought response of the Centre on a petition against the policy of several airlines, including Air India, to allegedly charge "exorbitant" rates for domestic transportation and repatriation of mortal remains of migrant Indian workers who die abroad.

A bench of Chief Justice Rajendra Menon and Justice V K Rao issued notice to the ministries of External Affairs and Civil Aviation and Air India, seeking their stand on the issue by January 14, 2019, the next date of hearing.

The public interest litigation (PIL) filed by an NGO has sought guidelines be framed by the

unnecessarily delay for the repatriation of the dead body by another extra 48 hours. Pravasi Legal Cell had then challenged this order before the Delhi HC. On this matter the Honorable High Court was pleased to stay the operation

of the circular and the said PIL is pending before the Court for final disposal.

The current petition demanded a direction to the central government to frame appropriate policies/schemes for repatriating mortal remains of the poor Indian emigrants free of cost as is practiced by India's neighboring countries like Pakistan and Bangladesh. The petition filed through Advocate Jose Abraham, prayed further that the Civil aviation Ministry and the National Carrier be directed to form proper guidelines to regulate domestic transportation and international repatriation of mortal remains by the airlines including the Government carrier, Air India.

Nurse Gets Justice after Approaching Labour Commissioner

November 1, 2018: A nurse working in a private hospital in Delhi approached the labour Commissioner through Pravasi Legal Cell, alleging violation of human rights and labour rights. The petitioner was employed as a nurse by the Max Super Specialty Hospital, New Delhi for more than a year. Last month she fell down at the hostel managed by the hospital while moving out for duty and sustained spinal injuries. She was admitted at the same hospital under the neurosurgical department.

After the initial treatment, she was advised to take bed rest for about three months by the doctors. Hence, she applied for leave but the nursing authorities at the hospital did not accept her application. Instead she was compelled repeatedly to wait for long hours despite the fact that she was advised for complete bed rest.

Since the authorities were not willing to accept her leave application and that she was forced to continue working, she informed the HR Department against the illegal and arbitrary action taken by the nursing authorities. She even sent a legal notice to the hospital management. But no relief was given to her despite repeated requests.

Finally, she approached Pravasi Legal Cell for legal assistance and through Adv. Jose Abraham, President, Pravasi Legal Cell filed a complaint with the Labour Commissioner pointing out the violation of Human rights and Labour laws in this case.

The complaint pointed out that since the accident occurred during the course of employment, she is entitled to receive paid leave under section 4 of the Workmen's Compensation Act, 1923. Subsequently in month of November the hospital responded to the petitioner and granted her three months' medical leave along with salary for the time that she was unable to perform duties.

PLC Organizes Consultation Meeting on Repatriation of Mortal Remains

December 4, 2018: The Kerala Chapter of Pravasi Legal Cell organized a consultation meeting on Repatriation of Mortal Remains on 4th December, at the Chavara Cultural Centre, Ernakulam.

Prof. K. V. Thomas, Member of Parliament and Former Minister of State in the Ministry of Agriculture and Ministry of Consumer Affairs, Food and Public Distribution, Government of India, Dr. Sebastian Paul, Advocate and former Member of Parliament, D. B. Binu, Advocate and a prominent RTI Activist, and Jose Abraham, Advocate on Record, Supreme Court of India were pleased to grace the occasion and share their views on the issue.



Legal Cell had filed a Public Interest Litigation related to the topic before the Honourable High Court of Delhi, challenging the practices of the airlines including the national carrier, Air India on repatriation of dead bodies. And the bench comprising of the Chief Justice and Justice V. K. Rao had issued notices to the Ministry of Civil Aviation, Ministry of External Affairs and Air India, seeking their responses.

Niyamavedi on Safe Emigration in Association with Kerala Club, New Delhi

December 7, 2018: Pravasi Legal Cell organized a Niyamavedi on Safe Emigration in association with Kerala Club, New Delhi on 7th December, 2018. It was inaugurated by Dr. V. P. Joy IAS, Director General of Hydrocarbons, Petroleum & Natural Gas, Government of India. Mr. Wills Mathews and Mr. Jose Abraham, lawyers from the Supreme Court of India led the Niyamavedi.



Consultation Meeting on “Repatriation of Mortal Remains: Posthumous Bodily Integrity under Challenge”

December 14, 2018: Pravasi Legal Cell organized a consultation meeting on “Repatriation of Mortal Remains: Posthumous Bodily Integrity under Challenge” on 14 December, 2018 at the Nehru Memorial Museum and Library, New Delhi.



The speakers of the day were Mr. D. Raja, Member of Parliament, Rajya Sabha, Mr. Sanjay Hegde, Senior Advocate, Supreme Court of India, Ms. Neema Noor Mohammad and Mr. Santhosh Paul, Advocates,

Supreme Court of India, Dr. Bins Sebastian, Assistant Professor, Department of Philosophy, St. Stephens College and Mr. Jose Abraham, Advocate-on-Record, Supreme Court of India and President, Pravasi Legal Cell.

Dr. Shashi Tharoor, Member of Parliament and Chairman, Parliamentary Standing Committee for External Affairs sent his message virtually and regretted his inability to attend the event as was promised earlier. The consultation meeting was concluded by (Retd) Justice Kurian Joseph, Supreme Court of India who wished every best to the efforts of Pravasi Legal Cell.

It is high time that the Parliament discussed issues related to repatriation of mortal remains and enacted necessary laws to streamline the procedure, said



D Raja MP while speaking at the consultation meeting. He said it was

surprising that the parliament has not yet discussed in detail this topic affecting Indian migrant laborers and their families.

The report of the consultation meeting, along with all the findings and suggestions, was published and political leaders including Members of Parliament were presented with a copy of the same. The drafting of a private member bill was initiated as was suggested during the consultation meeting.

Discrimination to NRIs on the RTI Act: Delhi HC Issues Notice to the Union Government on Pravasi Legal Cell's PIL

December 22, 2018: On a PIL filed by the Pravasi Legal Cell, the Delhi High Court issued a notice to the Government of India seeking its response on the Non-resident Indians' (NRI) eligibility to apply for information under the RTI Act. Shri. Jitendra Singh (MoS) had earlier stated in the Parliament that the NRIs were not eligible to seek information under the RTI Act.

The Right to Information Act, 2005 was enacted by the Parliament of India with the basic object to empower citizens, promote transparency and accountability in the working of the Government, contain corruption, and make democracy work for the people in real sense. Under the provisions of the RTI Act, any "citizen of India" may request information from a "public authority".

An Indian citizen who is outside India and who comes on a visit to India in any previous year will be treated as "non-resident" in India if he stays in India in that financial year for less than 182 days. According to The Passport



Act, 1967, an Indian passport is issued only to citizens of India to regulate their departure from India. And also a person must surrender his passport if he has acquired the citizenship of a foreign country. So this clearly shows that the Non-Resident Indians (NRIs) are citizens of India.

But in a recent answer to a question regarding applicability of Right to Information Act, 2005 to the Non-Resident Indians, the Union Minister for State said that “Only citizens of India have the right to seek information under the provisions of Right to Information Act, 2005. Non-Resident Indians are not eligible to file RTI applications” which is totally in contravention to the provisions of the Right to Information Act, 2005. This statement of the Union Minister for State created a lot of confusion in the minds of the Indian citizens living abroad.

PLC had earlier approached the Ministry of External Affairs through a memorandum for timely intervention on this issue and for taking necessary steps to ensure that the non-resident Indians are not excluded from the ambit of RTI Act. But there was no response from the Ministry regarding the memorandum.

Hence, a Public Interest Litigation was filed by Pravasi Legal cell under Article 226 of the Constitution of India, praying for issuance of appropriate order or directions for the Ministry to clarify its stand over the applicability of the Right to Information Act to the Non Residential Indians. Subsequently the Hon'ble High court of Delhi issued notice to Government in this regard.

Later on the government changed its position and issued a reply to the Parliament stating that the Non-resident Indian citizens were eligible to seek information under the Right to Information Act, 2005.

Plc Helps Austrian Citizen Celebrate Christmas at Home after Two Years in Custody in India

December 21, 2018: An Austrian Citizen who was imprisoned in India for two years for overstaying joined her ageing mother in Austria for Christmas, through the initiatives of the Austrian Embassy and Pravasi Legal Cell.



She was arrested in the state of Kerala in December 2016 on account of overstaying for five days after the expiry of her visa. After being arrested and placed in the prisons the story changed. She became sick mentally, unable to bear with the conditions in the prisons and was then moved to a correctional home in Kollam.

She was also not represented adequately before the court and had to continue in the correction home for the last twenty months.

The embassy officials, on knowing her plight recently made considerable efforts to have her released. Since the embassy officials based in Delhi could not extend proper legal assistance to her in Kerala, they approached Pravasi Legal Cell. The Embassy officials with the support of lawyers from the Legal Cell visited her in the correctional home in Kerala and ensured that she was represented well before

LEGAL TANGLE Woman in correction home for overstaying five days in Feb 2016, gets freedom Austrian's 22-month ordeal in jail ends

SHAM MOHAMMED | DC KOLLAM, DEC 21
It will be a memorable Christmas reunion for 38-year-old Austrian citizen Maria Kropel. She will be reuniting with her mother in her hometown of Vienna after spending 22 months in a jail in Thiruvananthapuram. Her ordeal began when she was arrested by the local police in Kollam after she

overstayed for five days after her tourist visa expired back in February 2016. After being sent to prison, she was eventually transferred to a correctional home in Kollam. She could not approach the Court or seek legal aid owing to her plight. Her only relative was her aging mother in Austria. Mr Kropel was on a tour to India in 2016 and reached Kerala after

visiting tourist spots in North India. She failed to notice that her visa expired and continued her tour for another five days before she was arrested in Kerala. She was eventually released on a 14-day bail. In women's prison, her mental condition worsened. She could not approach the Court or seek legal aid owing to her plight. Her only relative was her aging mother in Austria. Mr Kropel was on a tour to India in 2016 and reached Kerala after

visiting tourist spots in North India. She failed to notice that her visa expired and continued her tour for another five days before she was arrested in Kerala. She was eventually released on a 14-day bail. In women's prison, her mental condition worsened. She could not approach the Court or seek legal aid owing to her plight. Her only relative was her aging mother in Austria. Mr Kropel was on a tour to India in 2016 and reached Kerala after

visiting tourist spots in North India. She failed to notice that her visa expired and continued her tour for another five days before she was arrested in Kerala. She was eventually released on a 14-day bail. In women's prison, her mental condition worsened. She could not approach the Court or seek legal aid owing to her plight. Her only relative was her aging mother in Austria. Mr Kropel was on a tour to India in 2016 and reached Kerala after



the Court and that she was released from the jail and deported back to Austria.

With the coordinated efforts of the embassy, the Legal Cell, and the cooperation of the authorities in Kerala, she got released in a week's time – well in advance to reach home to celebrate Christmas with her ageing mother.

Air India Decides to Fix Rates for Repatriation of Mortal Remains from the Gulf Countries

January 04, 2019: Pravasi Legal Cell welcomed Air India's decision to discontinue the practice of weighing dead bodies to fix transportation charges of mortal remains. As per media reports, effective 5th January, Air India would charge fixed rates for the repatriation of adult and child human mortal remains to India from the gulf countries.

The change in Air India's policy vindicated the stand of Pravasi Legal Cell. In a Public Interest Litigation filed before the Delhi High court (10695/2018) on October 4, 2018, the Cell had challenged as inhumane and illegal the practice of considering human remains as cargo and weighing them to fix the rates. The decision was a welcome step towards ensuring the dignity of human persons. The Union government and Air India were asked by the honourable Delhi High Court to submit their stand on the demands raised by Pravasi Legal Cell in its PIL and the same is under the consideration of the court.

Though it is a partial success as far as the matter is concerned, Pravasi Legal Cell's fight for justice on this front would continue, demanding proper legislation to make the process of repatriation of mortal remains quick and free of cost for deserving Indian emigrant workers. Such a legislation should also aim at regulating domestic transportation of mortal remains

within India and the practices of private airlines too, as the present relief is provided only by Air India, the national carrier.

PLC hopes the country moves forward to ensure due dignity and honour of mortal remains of emigrant citizens.

Delhi HC Orders Labour Commissioner to Protect the Interests of the Striking Nurses

January 07, 2019: The Honourable High Court of Delhi ordered Deputy Labour Commissioner of Delhi to take appropriate steps to ensure the rights of the nurses who were on strike against a private hospital in Delhi demanding better working conditions and recommended pay.

The nurses' strike began in the month of November 2018. Subsequently the matter was taken up before the Assistant Labour Commissioner. But the hospital management was reluctant to attend the conciliation proceedings or to heed to the legitimate demands of its employees. However, nearly after ten days of strike, the Hospital Management came before the Assistant Labour Commissioner to settle the matter with its workmen and agreed to most of the demands put forward by them including the demand that the Management should not victimize employees on account of the strike. The same was recorded in the minutes of the conciliation meeting held in the Assistant Labour Commissioner's office.

But the Hospital later took a U-turn on its promises and started victimizing nurses who had taken part in the strike by sending them show-cause notices and by not allowing some of them inside the Hospital premises. In addition, the management, while issuing experience certificates to



its employees, recorded that she/he was a member of Nurses Association and was taking part in the strike at the Hospital. Hence, the nurses again approached the Assistant Labour Commissioner to take appropriate action but the Assistant Labour Commissioner refused to take any step in this regard even after constant reminders.

Subsequently, the nurses through Adv. Jose Abraham, President of Pravasi Legal Cell, filed a petition in the Hon'ble High Court of Delhi informing the court that the management was wilfully and deliberately violating the settlement terms arrived at the conciliation proceeding before the Deputy Labour Commissioner in utter disregard to the authority of law. The petition also prayed to direct the Deputy Labour Commissioner to take appropriate action against the Hospital for violating the terms of settlement. Hearing the plea, the Hon'ble Court has ordered the Deputy Labour Commissioner to take appropriate action against the Hospital at the earliest and report to it in four weeks' time.

Later on the hospital management submitted its response to the labour commissioner and promised in writing that no victimization would be happening from the side of the hospital management and the same was reported to the Court.

Delhi HC Issues Notice to DTC and Delhi Government over Ticketing Practices

January 16, 2019: The Delhi High Court issued notices to Delhi Transport Corporation (DTC) and Delhi Government over ticketing practices in the DTC and Cluster buses where the conductors are in the habit of issuing tickets while sitting at their designated seats. The honourable Court sought the stand of the DTC and the Transport department while considering a






Public Interest Litigation filed through Pravasi Legal Cell, a Delhi based NGO, seeking direction to ensure the safety and comfort of the passengers.

<https://www.outlookindia.com/newscroll/hc-asks-delhi-govt-how-it-will-ensure-dtc-bus-conductors-go-to-passengers-to-issue-tickets/1459384>

Outlook
THE NEWS SCROLL

16 JANUARY 2019 Last Updated at 6:38 PM | SOURCE: PTI

HC asks Delhi govt how it will ensure DTC bus conductors go to passengers to issue tickets

New Delhi, Jan 16 The Delhi High Court on Wednesday asked the AAP government how it will ensure that conductors of DTC and cluster buses go to passengers to issue tickets as against the prevalent practice of people going to them.

A bench of Chief Justice Rajendra Menon and Justice V K Rao said that in the agreement between the Delhi government and the cluster bus operators, there is a clause which provides that conductors have to go to each passenger and issue them a ticket.

The court asked the government how it will ensure implementation of this clause in cluster and Delhi Transport Corporation (DTC) buses where conductors are seen sitting in their seats and passengers go to them to buy the tickets.

The practice in the DTC and cluster buses ferrying passengers in Delhi is such that the conductors issue tickets sitting at the conductor's seat instead of moving from the front to the rear side of the bus and issuing tickets to

passengers boarding bus from every bus stop. Such a practice is unethical and also causes large scale inconvenience to the passengers.

Neither DTC nor the Transport department has bothered to address the problems faced by children, pregnant women or persons with babies, physically disabled persons, or senior citizens travelling in the bus. All of them are expected to wade through the crowd in the bus to the conductor's seat and return back to their seats.

It is also common that the ticket checking inspectors impose fine upon the passengers for not buying the tickets without verifying the actual circumstances. Such instances mostly occur with passengers who come from other states and expect the conductors to come to them issuing tickets as practised in buses owned by other states. Honourable Mr. Justice Kameswar Rao, while considering the PIL, observed that this was a peculiar practice in Delhi and the government should frame policies to change this to ensure the safety and comfort of the passengers.

PIL in SC Seeks Relief for Women Duped by NRI Husbands

January 16, 2019: Pravasi Legal Cell approached the Supreme Court of India with a Public Interest Litigation seeking relief for Indian women abandoned by their NRI husbands. The PIL was filed in the light of instances of young Indian women being abandoned in India or made subjects to physical and emotional abuse on foreign lands were increasing in the country.

Young women married and abandoned in India by NRI men have dreadful stories to tell. From approaching the local police station to not being able to get proper help from the courts for lack of knowledge about the whereabouts of the absconding husbands abroad, the suffering is endless. Many such women also end up taking care of the children born out of such marriages.



There are also instances where men already having wife and children abroad marrying again in India due to pressure from their families in India. When the facts become known, the groom's family plead helplessness before the bride and often force her out of her matrimonial home.

The instances of women being exploited physically and mentally on foreign land by their Indian husbands are also no less significant. Their condition



is even worse compared to wives abandoned in India. With no access to strange languages and culture and without any social or financial support, they often end up leading slavish lives.

Indian women in such situation often end up having no voice on divorce or the custody of children if the matter comes up before foreign courts. The interplay of international law makes the situation even more complex. The petition filed by Pravasi Legal Cell through its President Advocate Jose Abraham, sought free and efficient legal assistance for such women through the Indian Missions abroad.

The petition prayed for direction to frame effective mechanisms by the government to bring offenders before the law and policy for the police force. There must be a system to impound the passports of the absconding husbands and to ensure their return to India, the petition demanded. It also prayed for free and considerate legal assistance to the victims of NRI marriages in the country and abroad.

K. Padmanabhan Memorial RTI Lecture and National Award Function

January 27, 2019: Pravasi Legal Cell organised organized K. Padmanabhan Memorial RTI Lecture and National Award function on 27th January 2019 at the Constitution Club of India, New Delhi. This year the award was given to Advocate D. B. Binu, a renowned RTI activist and President, RTI Kerala Federation.

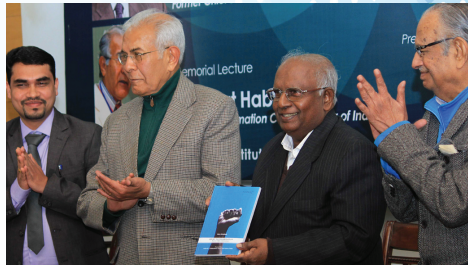
The Chief Guest of the event was Justice (Rtd) K. G. Balakrishnan, former Chief Justice of India. During the event, he also did the honour of releasing a book titled *Right to Information Act: Key to Open*

Democracy authored by Mr. Jose Abraham, Advocate on Record, Supreme Court of India and Founder & President of Pravasi Legal Cell.



Shri. Wajahat Habibullah, the first and former Chief Information Commissioner of India did the honour of delivering the first K. Padmanabhan memorial RTI Lecture. He spoke elaborately about the RTI Act and his experiences as the first Information Commissioner of India.

The K. Padmanabhan memorial national RTI Award for 2018 was handed over to Advocate D. B. Binu by Justice (Rtd) C. S. Rajan, Patron of Pravasi Legal Cell.



K. Padmanabhan Memorial National RTI Award was instituted in 2016 with the objective of encouraging and promoting RTI activists at the national platform. It is instituted in the memory of the first Secretary of Pravasi Legal cell, K. Padmanabhan, who was a retired Intelligence Bureau officer and an RTI activist.

PLC Welcomes Kerala Government's Budgetary Allocation for Free Repatriation of Mortal Remains

February 01, 2019: Pravasi Legal Cell welcomed the decision of the Kerala Government to allocate funds for free repatriation of the mortal remains of non-resident Keralites from abroad. In a letter sent to the Kerala government, PLC expressed its hope that a definite mechanism for its implementation is worked out and that it does not turn out to be a reimbursement scheme, but one for instant free repatriation. We also wish that this is extended to benefit Keralites who work in other states within India as well.

Repatriation of Mortal Remains is an area that Pravasi Legal Cell has made an intervention in. In a Public Interest Litigation filed before the Delhi High Court (W.P. (C) No. 10695/2018) on October 4, 2018 it had challenged (1) as

inhumane and illegal the practice of considering human remains as cargo and weighing them to fix the transportation rates and (2) the arbitrary and exorbitant transportation charges.

The Union Government and the Air India were asked by the Hon'ble Delhi High Court to submit their stand on the demands raised in the PIL before April 12, 2019, the next hearing date. Another PIL filed before the Hon'ble High Court of Kerala (W.P (C) No. 40145/18) on December 11, 2018 for the same relief is also pending for adjudication.

In the meanwhile, partial success in the matter came with Air India deciding to have uniform transportation rates for repatriating mortal remains from abroad.

The decision of the Kerala government came as another welcome step. PLC appreciated the government of Kerala for considering this serious matter and hope that other State Governments and the Union Government also work towards framing similar policies for free repatriation of mortal remains.

Pravasi Legal Cell's fight for justice on this front would continue. It stands on the demand for a proper legislation to make the process of repatriation of mortal remains quick and free for all deserving Indian emigrants. PLC demands that such a legislation should also aim at regulating domestic transportation of mortal remains within India.

PLC has also demanded for policy for the proper implementation on the Indian Community Welfare Fund for the purpose of free repatriation of mortal remains in deserving cases. A basic research by PLC reveals that the fund meant for such activities is mostly under utilised by Indian Missions across the world.

PIL in Delhi HC Seeking Free Legal Aid for Indian Citizens Living Abroad

February 04, 2019: Pravasi Legal Cell filed a Public Interest Litigation before the Honorable High Court of Delhi praying to direct the Union of India to frame appropriate policy for extending free legal aid envisaged under Article 39-A of the Constitution of India to the Indian citizens residing abroad.

Previously, Pravasi Legal Cell had submitted a memorandum to the Ministry of External Affairs highlighting the plight of Indian communities abroad due to lack of proper legal mechanism available to them. But there was no furtherance to the whole matter which necessitated filing of a PIL.

Many Indians are languishing in various jails across the globe for no fault of theirs. Most of them are under trials or victims of fraud. Such cases could have been avoided had there been any cushion of Legal assistance at the appropriate time.



There have been matters involving gross violation of fundamental rights to the Indian citizens residing abroad.

The right to free legal aid has been recognised as being part of the Right to Life and Personal Liberty under Article 21 of the Constitution by the Honorable Supreme Court in various cases. The petition also pointed out that the same could be executed with the help of the Indian Community Welfare Fund.

The Petition also highlighted situations where women married to NRI husbands went to their husbands' home in a foreign country only to be brutally battered, assaulted, abused both mentally and physically, ill fed,

and ill-treated by them in several other ways. Such women are either forced to flee or forcibly thrown out of their marital homes.

In such cases, most women abandoned in foreign countries end up having absolutely no support or means of sustenance or escape and without even the legal permission to stay on in that country. So there has to be a mechanism for providing free legal aid to such women in distress, the petition demanded. Many other issues such as repatriation of mortal remains, employment frauds etc. have also made the Indian Community more vulnerable and the petition argued that there was a real need for free legal aid to deserving Indian emigrants.

The matter was heard by the Bench comprising the Chief Justice and Justice V K Rao on 6th February 2019.

During the Admission of the case before the Hon'ble High Court of Delhi, the Counsel representing the Union of India, Maninder Acharya (ASG) made submission of an already existing policy under the Indian Community Welfare Fund (ICWF) with regard to the provision of free legal aid to Indians residing abroad. However, the ASG did not give any details about the nature or mechanism of assistance being provided.

On relying upon the same, the Hon'ble Court directed the Counsel of Pravasi Legal Cell to examine the documents submitted by the ASG on behalf of the Government of India and to file a fresh petition if not satisfied with the established policy. Considering the weightage of the issue, Pravasi Legal Cell has decided to withdraw the petition and to take time to study and verify the effectiveness of the already existing mechanism.

Pravasi Legal Cell stands committed to the cause of empowering people with the power of law. It will carry on its efforts until an effective mechanism is established for providing free legal aid to the deserving Indian citizens both within and outside India.

Waiting Endlessly for Justice: Fresh Representation Made on Behalf of the Widow of an Indian Emigrant

February 24, 2019: A widow of an Indian emigrant is suffering due to the inaction on the part of the Ministry of External Affairs, Government of India and Indian Embassy in Saudi Arabia in conducting an impartial and proper investigation into the death of her deceased husband. In this regard, the Hon'ble High Court of Delhi has directed the Ministry of External Affairs, Government of India to file the status report on the details of action taken till date by Saudi authorities regarding the investigation.

Noushaba Bano, a widow had filed a petition on 22 December 2015 in the High Court of Delhi seeking an urgent interference of the Court to repatriate the mortal remains of her husband Mohammad Afsar who died on 13 March 2015 in Saudi Arabia under suspicious circumstances and the body was not repatriated even after 9 months.

Mohammad Afsar was working in Saudi Arabia as a bulldozer operator and had last conversation with his wife on 13th March 2015 during which he mentioned that he is planning to come back to India by the end of March 2015 and further informed her that the issue of not sanctioning of leaves will be resolved shortly as he was going to meet his employer on the same day evening to discuss the same. Since then his mobile phone was switched off for two weeks. Smelling some foul play, Bano informed her brother-in-law Mr. Iftikar Ansari to find out the whereabouts of her husband.

On inquiring with the Indian embassy, they informed Ansari that Mohammad Afsar had committed suicide at the sponsor's house. It was a suspicious



death and on account of anonymity his colleagues informed the family that Mr. Afsar was beaten to death by the employer.

Despite completion of more than nine months from the date of death, the mortal remains of the deceased had not been repatriated to India.

His wife approached the Hon'ble High Court through Pravasi Legal Cell vide a Writ Petition seeking a

direction to repatriate the mortal remains of her deceased husband from Saudi Arabia to India. The Hon'ble High Court of Delhi vide its order dated 23.12.2015 directed the Union of India to bring back the mortal remains within four weeks from the date of the said order.

But the said order was not complied with even after lapse of the stipulated time as directed by the Court. Thereafter, Legal Cell moved a contempt petition numbered as CONT. CAS(C) 373/2016 on 22.03.2015 before the Hon'ble High Court of Delhi. On the direction of the Court, the body of the deceased finally reached Delhi on 30.04.2016 nearly after fourteen months.

Subsequently, the brother of the deceased Mr. Mohammad Zulfiquar filed Writ Petition (Crl) no 1345 of 2016 before the Hon'ble High Court of Delhi seeking directions to the Central Government and the AIIMS to take appropriate action to conduct a post mortem of the deceased at AIIMS, New Delhi. The High Court allowed the writ petition and ordered the post mortem in AIIMS.

The post mortem examination was conducted at AIIMS on 09.05.2016 where the possibility of suicide by hanging as claimed by Saudi Arabian officials



was ruled out. After this shocking post mortem report, Noushaba Bano with the help of Mr. Jose Abraham, President, Pravasi legal cell approached the Ministry of External Affairs through a memorandum requesting for an urgent interference of the Ministry for necessary follow ups in Saudi Arabia for conducting a fair and impartial probe into the cause of death of Mohammad Afsar.

Since the memorandum was unanswered, the widow was again forced to approach the Hon'ble High Court of Delhi with a fresh Writ Petition (Crl) no 1641 of 2017 seeking a proper and impartial probe into the death of her husband. But sadly, the Counsel of Ministry of External Affairs only prolonged the matter by seeking more time.

The matter was pending now before the court for more than two years. In this background, considering the urgency of the issue, Legal Cell sought details of the investigation and compensation under the RTI Act to Embassy of India, Riyadh, Saudi. And in reply to the RTI query, the Embassy clarified that re-investigation did not even start due to the reason that there was an absence of complaint or evidence.

Inspite of many interventions from Court, the Government has failed in this case to ensure justice to the widow of the deceased. Noushaba Bano has again approached the Ministry with the help of PLC requesting an urgent intervention.

Memorandum to MEA Citing Concerns Over Illegal Emigration

March 01, 2019: Pravasi Legal Cell submitted a memorandum to the Ministry of External Affairs expressing grave concern over illegal emigration happening from various places in the country and requesting the Central Government to take necessary actions to address this matter.

In the memorandum, Legal Cell highlighted many instances of illegal emigration that have happened in the recent years. Among them, was the case of illegal emigration that took place from the Munambham Harbor in the state of Kerala in the month of January 2019.

It was learned that many people including women and children were trafficked in a fishing Boat named “Deva Matha”. It is assumed that they were taken to some foreign countries without undergoing proper emigration processes and taking necessary safety precautions. The exact number of victims remained unknown, but was estimated to be about 150.

The memorandum also mentioned about a few more instances of illegal emigration and the case of online duping in the name of foreign recruitment. Pravasi Legal Cell requested the Ministry of External Affairs to take necessary steps to 1) curb instances of illegal emigration by increasing security measures, 2) amend laws governing emigration from India, 3) to take stringent action against agencies facilitating illegal emigration, and 4) spread education regarding safe emigration.

Pravasi Legal Cell hopes that the Ministry takes serious note of the submissions made in the representation and that this matter is addressed with due seriousness.

Conclusion

The year 2018-19 was another eventful year for Pravasi Legal Cell. It could intervene in different matters and make positive changes in the lives of ordinary Indian citizens within and outside the country. Justifying its name, Pravasi Legal Cell, it could intervene positively in many matters that directly affects the Pravasi Indian population. PLC remains committed to its objectives and ever more motivated by the results for its various activities and the unconditional support shown by individuals and organizations across the world.



PRAVASI LEGAL CELL

Empowering People on Legal Front

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