BEFORE THE HON’BLE HIGH COURT OF *“respective state name”* AT
*“name of the high court location”*

W.P.(C). No. of 2016

*Name of the Petitioner* : Petitioner

The State of *“respective state name”* & others : Respondents

SYNOPSIS

Petitioner in this writ petition is the husband of the 3rd respondent

In the matrimony between the petitioner and the 3rd respondent, a minor child by name *“name of the child”* was born on “*date of birth*”.

The matrimony suffered a breakdown and the 3rd respondent who was residing with petition at *“name of the location”* re-located to “*name of the location*” where she is presently residing with the minor daughter of the petitioner. The 3rdh respondent has instituted proceedings *“mention all the cases she has filed at which court and at what stage”.*

As petitioner’s minor daughter was kept out of his reach, he has instituted Exhibit P1 O.P. case *number / year* before the Family court *“name of the court”* seeking interim custody of his minor daughter.

Exhibit P2 guidelines have been prepared by The Child Right Foundation, which is a non-governmental organization. The said guidelines relate to child access and custody guidelines and has been approved by the High Courts of Bombay and Madhya Pradesh. They have been effectively implemented in the respective states.

Exhibit P2 is drafted in a such a manner that a child (whose parents are unable to reconcile themselves) does not suffer the brunt of disgruntled marriage and that such child grows up without being affected by any trauma.

Petitioner respectfully submits that if Exhibit P2 guidelines are implemented in the *“respective state name”,* it will go a long way in achieving the goal under Article 39(f) of the Constitution of India.

Hence this writ petition.

Dated this the *Day of Month, year.*

 Counsel for the Petitioner.

BEFORE THE HON’BLE HIGH COURT OF *“respective state name”* AT
*“name of the high court location”*

W.P.(C). No. of 2016

*(Special Original Jurisdiction)*

Petitioner:

*“Name and address of the petitioner”*

Vs

Address for service on the petitioner “*(please mention if you have local address or local advocate name and his address)”.*

Respondents:

1.*” Respective state name”,* represented by the Secretary,

Department of Law, State Secretariat,

*“State secretariat address”.*

2. The Registrar of High of “*respective state name”*.

High court of “*respective state name*” campus,
“*respective high court name*”.

3. “*Your* *spouse name and address*”.

Address for service on the respondents is as stated above.

MEMORANDUM OF WRIT PETITION (CIVIL) SUBMITTED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA

STATEMENT OF FACTS

The petitioner most respectfully submit as follows: -

1. Petitioner is a citizen of India. In this writ petition, petitioner seeks to bring to the notice of this Hon’ble Court the fact that the The Child Right Foundation has prepared “Child access and custody guidelines “and the that such guidelines have been adopted by the High Court of Mumbai and Madhya Pradesh in the matter of determining custody of minor children. Such guidelines, if adopted in the *“respective state name”* will be a step in the implementation of Article 39(f) of the Constitution of India. Hence this writ petition.
2. Petitioner is working *“detail about work”* in “*name of the city*”. The 3rd respondent in this writ petition is the wife of the petitioner. They were married on “*Date of the marriage*”. Out of the above matrimony a minor child by name “*child full name*” was born on “*date of birth*”.
3. The marriage of the petitioner with the 3rd respondent suffered a breakdown and the 3rd respondent, who was residing with the petitioner at *“name of the location”* re-located to “*name of the location*”. The minor daughter of the petitioner is with 3rd respondent.
4. *Mention all case details filed by your spouse and its status such as maintenance, divorce etc.*
5. It is respectfully submitted that the petitioner has all love and affection for the minor child. As a matter of fact, till the child was removed from his custody, petitioner’s only hope in life was child. The separation of this child traumatized the petitioner to a great extent and to gain access to his child [who deliberately kept out his reach by the 3rd respondent], petitioner was constrained to institute G.O.P No. *“case number / year”* before the Family court, *“name of the court”.*
6. Petitioner is producing herewith a true copy of the Memorandum of the petition in G.O.P No. *“case number / year”* dated “*actual date of filing the case”*on the files of Family Court , *“name of the court”* which may be marked as Exhibit P1.
7. The Child Right Foundation is a non-governmental organization engaged mainly in protection of child rights. The Child Right Foundation has meticulously prepared “Child Access and Custody Guidelines” divided into 7 chapters intended for family courts in the matter of exercising their jurisdiction regarding access, visitation and custody of minor children. According to the Child Right Foundation such guidelines will help the respective family court in disposing of the cases quickly and in a scientific manner ensuring that the right of the child to get the love and affection of both parents remains untrammelled. A true copy of the child access and custody guidelines prepared by The Child Right Foundation is produced herewith as Exhibit P2.
8. Exhibit P2 was published in the official website of Family Court Mumbai and it was the said official website that the petitioner obtained a copy of Exhibit P2.
9. Exhibit P2 contains a letter of the Registrar (inspection - II of the High Court of Bombay) wherein it is stated that the Hon’ble guardian judges of the Family Court in the state of Maharashtra have been pleased to direct circulation of the guidelines amongst the family court judges and marriage counsellors in the Family Court across the State of Maharashtra.
10. Responsible information gathered by the petitioner reveals that Exhibit P2 guidelines have been implemented in the respective family court and has found success.

Petitioner respectfully submit that in view of the underlying principles under Article 39(f) of the Constitution of India, implementation of Exhibit P2 guidelines in the *“respective state name”* will be beneficial, viewed from any angle. Therefore, in public interest, petitioner submit this writ petition on the following among other.

GROUNDS

1. Article 39 (f) of the Constitution of India, specifies that all children are to be given opportunities and facilities to develop themselves in a a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment. Exhibit P2 can be treated to be a step towards the implementing of the respective article by the *“respective state name”.*
2. Settled law is that in the matter of determining custody of children, the wish of the parent is least noticeable. A Family Court or a guardian court act as “Parens Patria” and the welfare of the child is the only consideration which weighs in the court.
3. The report of the consultant psychiatrist contains in Exhibit P2 reveals that it is the children of divorced couple who bear the brunt of a disgruntled marriage. It is a common usage couple to use children as pawns in the game of emotional chess. In due course parents move on in their lives and on the other partners but children carry on the trauma of being manipulated and torn apart emotionally all their lives. Such children suffer from personality problems, conduct disorders, substance abuse, criminal and antisocial traits, major depressive disorders etc. It has been opined by the respective Psychiatrist that Exhibit P2 is a huge step in respecting and considering the child’s best interest.
4. The way in which Exhibit P2 is prepared is commendable. It is a rare work and its practical implementation has met with success. If implemented in the *“respective state name”*, it will go a long way in resolving complicated issues relating to child custody.
5. This Hon’ble Court is empowered under section 50 of the Guardians and Wards Act to frame rules regarding the subject issues. The present issue also falls within the parameters of Article 227 of the Constitution of India.
6. The right of am minor child to grow up without any impediments should also be read into the provision of Article 21 of Constitution of India which provides for right to life

For these and other grounds to be urged at the time of hearing, it is prayed that this Honourable Court may be pleased to:

RELEAFS

1. Declare that Exhibit P2 guidelines relating to child access and custody can be effectively implementation the *“respective state name”* also by the respective jurisdictional forums.
2. Direct respondents 1 and 2 to circulate Exhibit P2 guidelines across the *“respective state name”* and direct the respective Family Court to follow Exhibit P2 guidelines in the matters relating to custody of minor children.
3. To grant such other further reliefs as are necessary in the interest of justice.

Dated this the *Day of Month, year.*

Petitioner

 Counsel for the Petitioner.

PETITION FOR INTERIM RELIEF

For the reasons stated in the Writ Petition (Civil) as verified in the affidavit accompanying thereto, it is prayed that this Honourable Court may be please to call for a feasibility report respondents 1 & 2 as to the viability of implementing Exhibit P2 guidelines, the *“respective state name”,* pending final disposal of the above Writ Petition (civil)

Dated this the *Day of Month, year.*

 Counsel for the Petitioner.

BEFORE THE HON’BLE HIGH COURT OF *“respective state name”* AT
*“name of the high court location”*

W.P.(C). No. of 2016

*Name of the Petitioner* : Petitioner

The State of *“respective state name”* & others : Respondents

I, *“name of the petitioner” S/o petitioner’s father name, aged so and so years, present address,* do hereby solemnly affirm and state as follows.

1. I am the petitioner in the above Writ Petition (Civil) and I am conversant with the facts of the case. I am competent to swear to this affidavit and I do not suffer from any legal disability.
2. The writ petition was prepared upon my instructions. I have no personal interest or private interest in the mater. My prayer in the writ petition is that Exhibit P2 guidelines for child custody and access may be implement the *“respective state name”* also. The respective guidelines have already been implement by Hon’ble High Court of Bombay and Madhya Pradesh. There is no authoritative pronouncement by the Hon’ble Supreme Court or by this Hon’ble Court on the question raised in this writ petition and that the result of this case will not lead to undue gain to myself or anyone associated with me or any undue loss to any person, body or persons or state. Exhibit P1 is a true copy of G.O.P *“case number / year”* Filed by me before the Family Court, *“name of the court”* and Exhibit P2 are the guidelines which obtained from the official website of the Mumbai Family Court.
3. All the statements and averments contained in the writ petition are true to the best of my knowledge, information and belief. I have not filed any writ petition earlier seeking similar and identical relief with respect of the same subject matter. The reliefs prayed in this writ petition are very essential which may be granted.

All the facts stated above are true and correct

Dated this the *Day of Month, year.*