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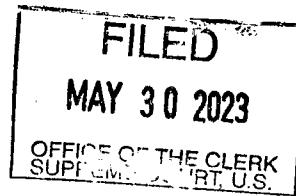
IN THE
SUPREME COURT OF THE
UNITED STATES

PALANI KARUPAIYAN et al
---Petitioners

v.

TATA CONSULTANCY SERVICES et al
---- Respondents

On Petition for a Writ of Certiorari
to the United States Court of
Appeals for the Third Circuit
Docket-23-1303



**PETITION FOR A WRIT OF
CERTIORARI**

Palani Karupaiyan.
Pro se, Petitioner,
1326 W. William St
Philadelphia, PA 19132s
palanikay@gmail.com
212-470-2048(m)

I. QUESTION PRESENTED

Petitioner's prayed reliefs were

- i) National importance of having the US Supreme Court decide or conflict with USSC ruling, or importance of similarly situated over millions of citizens or the first impression is raised at USSC.

Petitioner's prayed 10 reliefs were as Writ of Mandamus or Prohibition or alternative so the questions were part of three test condition requirement of the Writs.

- ii) When Salahuddin v. Cuomo, 861 F. 2d 40 - Court of Appeals, 2nd Circuit 1988 ruled that

"this Court [USCA 2nd Cir] has repeatedly cautioned against Sua Sponte dismissals of pro se civil rights complaints prior to requiring the defendants to answer".

Dist Court sua sponte dismissing the complaint before defendants to answer and USCA3 failed to vacate Sua Sponte Dismissal is error.

- iii) When Moses H. Cone Memorial Hospital v. Mercury Constr. Corp., 460 US 1 - Supreme Court 1983 @footnote[6] ruled that

More fundamentally, a Court of appeals has no occasion to engage in extraordinary review by mandamus "in aid of [its] jurisdiction[n]," 28 U. S. C. § 1651, when it can exercise the same review by a contemporaneous ordinary appeal. See, e. g., Hines v. D'Artois, 531 F. 2d 726, 732, and n. 10 (CA5 1976).

Following USCA3's ruling is error

Mandamus relief is unavailable because he may challenge the District Court's dismissal order through the normal appeal process. See In re Nwanze, 242 F.3d 521, 524 (3d Circuit. 2001) (noting that, “[g]iven its drastic nature, a writ of mandamus should not be issued where relief may be obtained through an ordinary appeal”) (citation omitted).

II. PARTIES TO THE PROCEEDING

PALANI KARUPAIYAN; P. P.; R. P. are petitioners
Respondents are

TATA CONSULTANCY SERVICES, (TCS);
RAJESH GOPINATHAN, individually and in
his official capacity as MD, CEO of TCS;
TATA GROUP OF COMPANIES;
JOHN DOES, ex-CEOs of TCS

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V. PETITION FOR A WRIT OF CERTIORARI.

Petitioner respectfully prays that a Writ of Certiorari to review the opinion/ judgment/ orders of USCA3's (docket 23-1303) and US Dist Court for New Jersey- Newark div (Dist docket 22-cv-1349) below.

VI. OPINION(S)/ORDERS/JUDGMENT(S)
BELOW (FROM DIST COURT AND
USCA3)

1. USCA3's Opinion dated Apr 7, 2023 (**App.1**)
Hon. HARDIMAN, RESTREPO, and BIBAS, Circuit
Judges
2. USCA3's Order dated Apr 7, 2023 (**App.4**)
3. Dist Court Sua Sponte order dismissal of
complaint Jan 27 2023. Ecf-5 (**App.5**)

**Hon. Esther Salas USDJ; Hon. José R. Almonte
USMJ**

VII. JURISDICTION

In *Hohn v. United States*, 524 US 236 - Supreme Court 1998@ 258 ("*Rosado v. Wyman*, 397 U. S. 397, 403, n. 3 (1970) (a Court always has jurisdiction to determine its jurisdiction)).

Hohn @264 ("We can issue a common-law writ of certiorari under the *All Writs Act*, 28 U. S. C. § 1651.)

Hobby Lobby Stores, Inc. v. Sebelius, 568 US 1401 - Supreme Court 2012@ 643

The only source of authority for this Court to issue an injunction is the All Writs Act, 28 U.S.C. § 1651(a) and

Following a final judgment, they [Petitioner] may, if necessary, file a petition for a writ of certiorari in this Court.

On Apr 07 2023, United States Court of Appeals for 3rd Cir entered opinion and Order. App.1 to App.4

The jurisdiction of this Court is invoked under 28 U. S. C. § 1254(1).

VIII. CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED.

All Writs Act, 28 U.S.C. § 1651(a)

Title VII,

The Americans with Disabilities Act;

(iii) The Genetic Information Nondiscrimination Act (GINA)F; and

(iv) The Age Discrimination in Employment Act

42 U.S.C. § 1981

42 US Code § 1988 - Proceedings in vindication of civil rights

The New Jersey Law Against Discrimination (NJLAD)

26 U.S. Code § 7201. Attempt to evade or defeat tax, 26 U.S.C. § 7203 and § 7206(1)

18 USC § 371 - Conspiracy to commit offense or to defraud United States, 18 U.S.C. § 1956, money laundering law.

.. and more

IX. STATEMENT OF THE CASE

a) DIST COURT PROCEEDING AND RULING

On Mar 14 2022, Plaintiff filed employment related complaint against the respondents US Dist Court of New Jersey-Newark div under and timely served the complaint to all defendants.

On Jan 27 2023 Dist Court granted the forma pauperis and dismissed the complaint by Sua Sponte when no defendants appeared/ answered App.5

Timely Petitioner filed Notice of Petition for Writ of Mandamus, Prohibition or Alternative App.13 and Notice of Appeal. ECF-7.

Plaintiff filed Motion for reconsideration of dismissal of complaint and Petition for Writ of Mandamus, Prohibition or alternative under All Writs Act/ 28 U.S.C. § 1651 which was denied by text order.

b) USCA3 PROCEEDING AND RULING

On Apr 07 2023, USCA3 entered NOT PRECEDENTIAL opinion (App.1) and order (App.4) entered.

USCA3's ruled that

- (i) "we will deny in part and dismiss in part the petition"
- (ii) Mandamus relief is unavailable because he may challenge the District Court's dismissal order through the normal appeal process. See In

re Nwanze, 242 F.3d 521, 524 (3d Cir. 2001)
(noting that, “[g]iven its drastic nature, a writ of mandamus should not be issued where relief may be obtained through an ordinary appeal”)
which is error by *Moses* 460 US 1(1983)
Footnote[6]

X. TCS BUSINESS MODEL

TCS is specialized in outsourcing the US corporate Information Technology (IT) software development/ Back office Process Jobs (BPO) to their offshore development center in India.

a) In India

1. Every year TCS recruits many thousands college outs in India and give free complete training them for 3 years with salary, bring some of these trained engineers to USA in H1, L1 visas by labor certification fraud, US immigration fraud by perjury violation, US Citizenship discrimination and use these engineers against US based over 40 aged employees who have more experienced, Expertise than TCS's Indian engineers and These engineers from India help the US corporate to transfer the job to India for outsourcing. This Modus operandi not only discrimination against US based over 40 ages employees/citizens, deny the employment to fresh college out of US citizen.
2. TCS has offshore development center in India for the software development on behalf their business/IT development partner in United States (US's Corporations)

b) In USA

1. By Offshore development, TCS and its business partners evade the tax liability against US and Local Govts including payroll tax and properties tax.
2. TCS has framework to help and outsource the US corporation's Information technological Job (IT Jobs)/ Back office Business Processing outsourcing (BPO) to India and for evade the tax liabilities, Immigration fees, Labour certification fees, tax liabilities including payroll tax and false claims against United States and its Local Govts for money laundering purpose, Racketeer (Rico) crimes. These US corporations are the client/IT development, business partners to TCS.
3. TCS does not own any properties in United States. In India, TCS owes 1.5 million Sq foot office in India for the purpose of outsourcing operation.
“The total development area of the campus is expected to be around 1.5 million square feet. Once all the applicable permissions are received, the construction of Phase I is expected to be completed by March 2016.”
<https://www.tcs.com/tcs-software-development-campus-indore#:~:text=The%20total%20development%20area%20of,by%20the%20Madhya%20Pradesh%20government>¹

XI. TCS BUSINESS WRONGDOINGS

1. TCS does outsource operation in all states of United States and has software development/ software implementation contract with most fortune 500 US corporations.

¹ After this civil action/complaint filed, this URL was removed.

2. TCS does cash delivery to the managers who work in the US corporations helped TCS for the purpose of tax evasion including payroll tax, money laundering by outsourcing the US software development contracts. These money transaction happening/ happened secretly, untraceably using outsourcing the IT Job/BPO jobs to India.

3. The Individual Respondents were individually also benefited by outsourcing, preferring/favoring foreigners against US citizen in employment because foreigners help the TCS to outsource where the US citizens` should not help the TCS to outsource.

4. In India, TATA Group habitually buying Court Orders, paying terrorists organization to run the business without any disturbance.

XII. PURPOSE OF OUTSOURCE

The purpose of TCS's outsourcing is to evade the Dept of Labor's Labor certification fee (which is perjury crime), Immigration fee, payroll tax to US and Local Govts, tax liabilities, properties tax to the Local Govts in US, Secretly, untraceably transfer the money out of US in the name of outsource and pay the money/cash in India to the US corporate manager who agreed/helped the outsourcing.

XIII. PRO SE PLEADING STANDARDS

Erickson v. Pardus, 551 US 89 – Sup. Ct. 2007 @ 2200

A document filed pro se is "to be liberally construed," Estelle, 429 U.S., at 106, 97 S.Ct. 285, and "a pro se complaint, however inartfully pleaded, must be held to less stringent standards than formal pleadings drafted by lawyers.

XIV. ALL WRITS ACT, 28 U.S.C. § 1651(A)

In *Pa. Bureau of Correction v. US Marshals Service*,
474 US 34 - Sup Ct 1985 @43

The All Writs Act is a residual source of authority to issue writs that are not otherwise covered by statute.

XV. RELIEFS SHOULD BE GRANTED UNDER
RULE 8(A)(3)/54(C) OR WITHOUT RULE
12(B)'S REQUIREMENT

In *Bontkowski v. Smith*, 305 F. 3d 757 - USCA, 7th Cir. 2002@762 "can be interpreted as a request for the imposition of such a trust, a form of equitable relief and thus a cousin to an injunction. Rule 54(c), which provides that a prevailing party may obtain any relief to which he's entitled even if he "has not demanded such relief in [his] pleadings." See *Holt Civic Club v. City of Tuscaloosa*, 439 U.S. 60, 65-66, 99 S.Ct. 383, 58 L.Ed.2d 292 (1978);

In *Boyer v. CLEARFIELD COUNTY INDU. DEVEL. AUTHORITY*, Dist. Court, WD Penn 2021

"Thus a prayer for an accounting, like a request for injunctive relief, is not a cause of action or a claim upon which relief can be granted. Rather, it is a request for another form of **equitable relief**, i.e., a "demand for judgment for the relief the pleader seeks" under Rule 8(a)(3) of the Federal Rules of Civil Procedure. D****As such, it too is not the proper subject of a Rule 12(b)(6) motion. D***Global Arena, LLC, 2016 WL 7156396, at *2; see also *Bontkowskiv. Smith*, 305 F.3d 757, 762 (7th Cir. 2002).

XVI. WHY USCA3 WILL NOT ABLE TO
GRANT THE APPELLANT'S
WRITS/INJUNCTION(S) RELIEFS

In the Dist Court this petitioner filed i) Notice of appeal and ii) Notice of Petition for Writ of Mandamus, Prohibition or alternative. As per the Moses footnote [6], USCA3 shall not able to grant the injunctive reliefs along with the appeal.

In Moses H. Cone Memorial Hospital v. Mercury Constr. Corp., 460 US 1 - Supreme Court 1983 @footnote[6].

More fundamentally, a Court of appeals has no occasion to engage in extraordinary review by mandamus "in aid of [its] jurisdiction[n]," 28 U. S. C. § 1651, when it can exercise the same review by a contemporaneous ordinary appeal. See, e. g., Hines v. D'Artois, 531 F. 2d 726, 732, and n. 10 (CA5 1976).

XVII. USSC'S WRIT AGAINST LOWER
COURT(S)

Bankers Life & Casualty Co. v. Holland, 346 US 379 - Supreme Court 1953@383

As was pointed out in Roche v. Evaporated Milk Assn., 319 U. S. 21, 26 (1943), the "traditional use of the writ in aid of appellate jurisdiction both at common law and in the federal Courts has been to confine an inferior Court to a lawful exercise of its prescribed jurisdiction or to compel it to exercise its authority when it is its duty to do so."

Bankers @383 there is clear abuse of discretion or "usurpation of judicial power" of the sort held to justify the writ in De Beers Consolidated Minesv. V. United States, 325 U. S. 212, 217 (1945).

XVIII. USSC's RULE 20.1 AND RULE 20.3.

In re US, 139 S. Ct. 452 - Supreme Court 2018 @ 453

S.Ct. Rule 20.1 (Petitioners seeking extraordinary writ must show "that adequate relief cannot be obtained in any other form or from any other Court" (emphasis added));

S.Ct. Rule 20.3 (mandamus petition must "set out with particularity why the relief sought is not available in any other Court"); see also Ex parte Peru, 318 U.S. 578, 585, 63 S.Ct. 793, 87 L.Ed. 1014 (1943) (mandamus petition "ordinarily must be made to the intermediate appellate Court").

USCA3 denied petitioners' petition and ruled that

Mandamus relief is unavailable because he may challenge the District Court's dismissal order through the normal appeal process. See In re Nwanze, 242 F.3d 521, 524 (3d Cir. 2001) (noting that, "[g]iven its drastic nature, a writ of mandamus should not be issued where relief may be obtained through an ordinary appeal")

The above USCA3's ruling conflict with USSC when USSC ruled that Moses 460 US 1 – S. Court 1983 @footnote[6].

More fundamentally, a Court of appeals has no occasion to engage in extraordinary review by mandamus "in aid of [its]

jurisdiction[n]," 28 U. S. C. § 1651, when it can exercise the same review by a contemporaneous ordinary appeal. See, e. g., Hines v. D'Artois, 531 F. 2d 726, 732, and n. 10 (CA5 1976)

Also the above Substitute the Test-1 of 3 tests requirement of grating the Writs in the US Supreme Court.

XIX. THREE TEST CONDITIONS FOR GRANT THE WRITS (OF MANDAMUS, PROHIBITION OR ANY ALTERNATIVE)

Test-1: No other adequate means [exist] to attain the relief [the party] desires

Or it (injunction) is necessary or appropriate in aid of our jurisdiction (28 USC§ 1651(a))

Or

the party seeking issuance of the writ must have no other adequate means to attain the relief [it] desires";

Test-2: the party's `right to [relief] issuance of the writ is clear and indisputable

Or Bankers Life & Casualty Co. v. Holland, 346 US 379 – Sup.Ct 1953

clear abuse of discretion or "usurpation of judicial power" of the sort held to justify the writ in De Beers Consolidated Minesv. v. United States, 325 U. S. 212, 217 (1945)

Or Hobby Lobby Stores, Inc. v. Sebelius, 568 US 1401 – Sup.Ct 2012

"whatever the ultimate merits of the applicants' claims, their entitlement to relief is not "indisputably clear"

Or the Petitioner must demonstrate that the "right to issuance of the writ is clear and indisputable." Cheney, 542 U.S. at 380-81, 124 S.Ct. 2576

Or Cheney v. United States Dist. Court for DC, 542 US 367-Sup.Ct 2004

Defendant owes him a clear non-discretionary duty

Test-3: a question of first impression is raised.

Or

"the issuing Court, must be satisfied that the writ is appropriate under the circumstances"

XX. REASONS FOR GRANTING THE WRIT(S)

1) Writ against Tata Consulting Services ("TCS") and it's Parental entity or affiliates that they should not discriminate the US citizenship AND favor of foreign nationals against US citizen in employment or in application for employment

Test-2: Because of US Citizen should not help TCS to outsource the US corporate jobs, and foreign national employees should help TCS to outsource, TCS frame the business model to refuse employment/discriminate the US citizen in employment.

Foreigner employees, for their Job security, every effort to help TCS to outsource the US corporate IT/BPO Jobs so TCS preferred to employ the foreigner over US citizens.

Test-3: Favoring foreigner against US Citizen in employment is discrimination.

In *Novak v. World Bank*, No. 79-0641, 1979 U.S. Dist. LEXIS 11742 (D.D.C. June 13, 1979), the plaintiff argued that defendant had a policy of discriminating against United States citizens in violation of Title VII's prohibition against national origin discrimination. The Court held that such a claim — i.e., discrimination against U.S. citizens — alleges discrimination based only on citizenship and thus was barred by the holding in *Espinoza*². Id. at *3. (Cited in *English v. MISYS INTERNATIONAL BANKING SYSTEMS, INC.*, Dist. Court, D.NJ 2005)

In *Novak v. World Bank*, 20 Fair Empl.Prac.Cas. (BNA) 1166, 1167 (D.D.C. 1979), Discrimination against a United States citizen in favor of an alien has been labeled reverse *Espinoza*

See the Class action suit by *Katz v Tata Consulting Service* Dist Court for NJ Docket 22-7069 (BRM)(JRA), how TCS is discriminating the US citizen and favoring the foreigner against US citizen in employment. 70% of TCS employees in USA are non-US citizen. 12% of TCS employees in USA are US citizen who work in Marketing, Sales, Admin staff to focus the outsourcing.

By-product of discriminating the US Citizen, Outsourcing cause the tax evasion, money laundering against the United States and local Govts, knowledge drain to Nation's STEM knowledge sector.

² *Espinoza v. Farah Mfg. Co.*, 414 U.S. 86, 88 (1973).

2) Order that (i)TCS should not outsource US Corporate Jobs (ii) TCS should insource all the US Corporate IT/BPO project back to United States within 6 months of this Court order (iii) TCS should not involve in Tax evasion and Money Laundering against United States and its Local govt(s)

Test-2: By outsourcing US Corporate IT/BPO jobs, TCS does/did tax evasion (including payroll tax), Money laundering

Test-3: The foreigner employee(s) to do the US Corporate Jobs, the [potential] employer need to get approved Labor Certification from Dept of Labor that No US Citizen is available to take the jobs. So the potential employer can hire foreign employee without discrimination US citizen. The outsourcing, put the foreigner at front, automatically discriminate the US citizen in employment. *See 8 U.S.C. § 1182(a)(5)(A) and 8 CFR 214.2(h) (h1-b visa).*

When the US corporate Jobs are outsource, TCS involves Tax evasion including Payroll tax against United States and its Local govts. 26 U.S. Code § 7201. Attempt to evade or defeat tax, 26 U.S.C. § 7203 and § 7206(1)

The business model of the TCS that it encourage the US Corporate managers to Outsource so US corporate can evade taxes, these tax evaded money is paid to US corporate managers in India which is silently, secretly, untraceably happened/ happening. These TCS / US Corporation's activities where violation in 18 USC § 371 - Conspiracy to commit

offense or to defraud United States, 18 U.S.C. § 1956, money laundering law.

In Sullivan v. Little Hunting Park, Inc., 396 US 229 - Supreme Court 1969 @ 239-240

Compensatory damages for deprivation of a federal right are governed by federal standards, as provided by Congress in 42 U. S. C. § 1988, which states:

"The jurisdiction in civil . . . matters conferred on the district Courts by the provisions of this chapter and Title 18, for the protection of all persons in the United States in their civil rights, and for their vindication, shall be exercised and enforced in conformity with the laws of the United States, so far as such laws are suitable to carry the same into effect

For the above reasons, petitioner pray this court for his prayer to be granted.

3) Order that TCS should not access to H1, L1, B1 work permit visa from Dept of Labor/ United States Citizenship and Immigration Services ("USCIS") and Invalidate all the H1, L1, B1 visa previously obtained.

Test-2: TCS get H1, L1, B1 work visa for the purpose of employ few foreign employees in US Corporate office as temp contract employee and these foreign employees help the US Corporation and TCS to outsource the IT Jobs to India. These foreign employees play every tricks against US citizen employees including abuse of at-will termination to outsourcing purpose.

Test-3:

TCS has over 556,986 employees globally, every year adding many thousands headcount and has 20,000 employees in the US which is its top client and revenue market. Out of 20,000 employees, most of them were foreigner working in Sales/Marketing/office Administrative position to outsource the US Corp Jobs. 70% of the TCS Employees in USA were India/Asian nationality. 12% of TCS employees in USA **App.14.** were US citizens who were used as Sales/Marketing /Administrator staff to negotiate the US Corporation managers / help the US cooperate Jobs outsource to India. **App.14.** This is the Second class action lawsuit against TCS for pattern & practice of TCS discriminating US Citizen in employment. As previously stated, these temp work visa holders used/abused by TCS/US Corporations to outsource US corporate job and consequently caused/for tax evasion and money laundering, US citizen discrimination and favor the foreigner against US citizen discrimination in employment.

See the Class action against Katz v TCS which clearly states that the previously obtained h1, L1 visa were thru perjury crime of TCS against Dept of Labor. So this court should invalidated all the h1, L1 visas obtained by TCS.

This order should compel the TCS to hire US citizens, TCS will not discriminate the US Citizen, favor the foreigner against US Citizen in employment.

4) Order that TCS should deposit to US treasury the 3 times of Money TCS took out of United States by Outsourcing and lock/jail the TCS's CxO until all the money recovered and deposit to US treasury

Test-2: TCS outsourced the US corporate jobs without US Dept of Labor certification³ that when US citizen were available and able to take the Jobs and evade the USCIS fees, Payroll tax against US and local govt's i.e TCS illegally outsourced and money laundered.

Test-3: Any wrongdoing with Dept of Labor certification is perjury crime. 8 U.S.C. § 1182(a)(5)(A) and 8 CFR 214.2(h) (h1-b visa)

By Illegal outsourcing, without Dept of Labor's Certification, TCS did Tax evasion including payroll tax, money laundering, corrupt corporate business practices.

TCS CxOs and Ex-CEOs, Ex-CxOs should be lock until these 3 times outsourced money recovered and deposited to US Treasury. These Top officials were personally economically benefitted/gained by outsourcing.

So petitioner prays this Court to order that TCS should deposit 3 times of money to US treasury,

³ Foreigner to do the US based Job, [Potential employer to foreign employee(s), need to get Labor Certification from Dept of Labor that no US citizen is available to take the job so the potential employer need to hire foreigner. In outsourcing, TCS did not get Labor certification, simply outsourced and evaded the tax including payroll tax.

the money TCS took out of US thru outsourcing and lock these TCS's CxOs, ex-CxOs until all money recovered and deposited to US Treasury. These wrong doings were done by these Top officials were done knowingly, intentionally.

5) Order to transfer the ownership of TCS and its affiliate companies/Business in USA to the petitioner Palani Karupaiyan.

Test-2: To escape from the crime and perjury crime (such outsourcing, money laundering, tax evasion, perjury crime against Dept of Labor, USCIS) against US the TCS Executive officers including CxO were not living or having office in USA and continuously doing such perjury crimes against United States, US citizenship discrimination and favoring foreigner against US Citizen in employment wrong doing also continuously, repeated, knowingly, intentionally done by TCS.

Test-3: The best way to stop the TCS and its CxOs continuously, repeatedly doing crime against United States (such outsourcing, money laundering, tax evasion, money laundering, perjury crime against Dept of Labor, USCIS) is transfer the ownership of TCS and its affiliates business in USA to petitioner Palani Karupaiyan so the petitioner should operate the business of TCS in non-profitable way and pay payroll tax(es), pay back all the tax dues to United States which were evaded by TCS and its affiliates. See. Katz v. Tata Consulting Services-22-cv-7069-D.N.J. (class action) **App.14.**

To escape from the crime and perjury crime against US the TCS Executive officers, including CxOs were not living or having office in USA and

continuously, exponent day by day doing **App.14.**
(Appendix-E, Class action against TCS) such crimes
continuously, exponentially if the ownership of TCS is
not transferred.

**6) Order that TCS should pay the
petitioner \$15 million dollars for
[r]easonable money for time and effort of
the [P]laintiff, pain and suffering and all
expenses and costs of this action.**

Test-2: When Petitioner tried to get attorney to representation to file the case, the attorney told that employment cases were complicated and requested the petitioner for down payment which was not affordable to the petitioner when the petitioner is unemployed, disabled status, and pauperis.

Test-3: Without help of attorney, and attorney is unavailable to the petitioner, with petitioner spine injury, back pain, diabetic disability which eyes were blurring, petitioner drafted the complaint and this petition. For Petitioners multiple request, Lower Courts multiple time failed/denied to appoint attorney to the petitioners.

So petitioner prays this Court's order that the TCS to pay \$15 million the petitioner for the petitioner time, effort, pain and suffering for the petitioner(s) went thru in this proceeding.

7) Order that TCS should pay the petitioner for failure to hire, Title VII, Disability status/ GINA, US citizenship discrimination, favoring foreigner against US Citizen, and Section 1981/ 1988 claims

Test-2: undisputed facts are that Plaintiff/ Petitioner applied employment with TCS and TCS scheduled the Job interview and denied employment to the plaintiff/Petitioner because of Plaintiff is 50 years old US Citizen, disabled status, GINA status, Hindu black colored and TCS wanted to employees' age at 25. See. Complaint ECF-1.@48,49, and because of petitioners age is 50 TCS denied employment

Still today Petitioner is unemployed due to TCS discriminative wrongdoings such as US Citizenship discrimination, favoring foreigner against US Citizen, Section 1981, Disability status, GINA status, Title VII and NJLAD.

Test-3: Section 1981 protects U.S. Citizens by the reasoning of the Supreme Court in *McDonald v. Santa Fe Trail Trans. Co.* 427 U.S. 273,287, 96 S.Ct. 2574, 49 L.Ed.2d 493 (1976).

Not only TCS discriminated this plaintiff/ petitioner because of Petitioner is US Citizen, TCS had intentional policy to pattern or practice of discriminating against individuals who are not South Asian or Indian by favoring them in hiring and employment decisions. See App.14. (Class action)

- 1) Age, US citizenship discrimination, favoring foreigner against US citizen, failure to hire claims.

See ECF-1, compl@48,49

After two weeks of interview scheduled, Pakistani origin employee of TCS called and said

"You old US citizen is not needed because TCS wanted to employee young 25 years old Indian engineer is employed for the job Plaintiff applied."

- 2) Failure to hire, National origin claim, disability/Gina status, Dishonoring court order, religion, Color, Race claims

See ECF-1, compl@50

When I asked TCS[employee from Pakistan origin] to provide me one of the job because Im need job to take care of diabetic, lung defect care and I need to pay child support. TCS told me that Im sick old black Indian and go back to India to work in the offshore development, otherwise he should kill me. Also TCS said that TCS is not place for sick peoples to work

Based on Southern California Edison verdict, App.27 this Court should order the TCS to pay the petitioner as per the Appendix-H. App.20

In Sullivan @ 239-240

*We had a like problem in Bell v. Hood, 327 U.S. 678, where suit was brought against federal officers for alleged *239 violations of the Fourth and Fifth Amendments. The federal statute did not in terms at least provide any remedy. We said: 239*

"[W]here federally protected rights have been invaded, it has been the rule from the beginning that Courts will be alert to adjust their remedies so as to grant the necessary relief. And it is also

well settled that where legal rights have been invaded, and a federal statute provides for a general right to sue for such invasion, federal Courts may use any available remedy to make good the wrong done." *Id.*, at 684."

The existence of a statutory right implies the existence of all necessary and appropriate remedies. See Texas & N. O. R. Co. v. Railway Clerks, 281 U. S. 548, 569-570.

a) AGAINST LOWER COURTS

8) Order to vacate the sua sponte order of dismissal the complaint.

Test-2. Dist Court dismissed the complaint by Sua Sponte nature before the defendants /respondents appear/ answer. App.5.

Test-3: *In Salahuddin v. Cuomo*, 861 F. 2d 40 - Court of Appeals, 2nd Circuit 1988 @43, when the Dist Court dismissed the complaint by sua sponte, USCA2 vacated the dismissal

"this Court [USCA 2nd Cir] has repeatedly cautioned against Sua Sponte dismissals of pro se civil rights complaints prior to requiring the defendants to answer. See, e.g., Bayron v. Trudeau, 702 F.2d 43, 45 (2d Cir.1983); Fries v. Barnes, 618 F.2d 988, 989 (2d Cir.1980) (citing cases)."

Also petitioner pray this Court to vacate the USCA3's order deny in part/dissmiss in part the petition for Writ as well. App.4. because

In Moses H. Cone Memorial Hospital v. Mercury Constr. Corp., 460 US 1 - Supreme Court 1983 @footnote[6] ruled that

More fundamentally, a Court of appeals has no occasion to engage in extraordinary review by mandamus "in aid of [its] jurisdiction[n]," 28 U. S. C. § 1651, when it can exercise the same review by a contemporaneous ordinary appeal. See, e. g., Hines v. D'Artois, 531 F. 2d 726, 732, and n. 10 (CA5 1976).

Following USCA3's ruling is error

Mandamus relief is unavailable because he may challenge the District Court's dismissal order through the normal appeal process. See In re Nwanze, 242 F.3d 521, 524 (3d Cir. 2001) (noting that, "[g]iven its drastic nature, a writ of mandamus should not be issued where relief may be obtained through an ordinary appeal") (citation omitted).

Petitioner prays this Court to remand the case back to US Dist Court for further proceeding.

9) Order to appoint guardian ad litem or alternatively pro bono attorney

Test-2. Petitioners requested the Lower Courts to appoint guardian ad litem and/or pro bono attorney ECF(13) which was denied.

Appoint father Petitioner as guardian ad litem as well denied based on 28 USC§ 1654; Osei-Afriye v. The Medical College of Pennsylvania, 937 F.2d 876(3d Cir. 1991)

Test-3. In Montgomery v. Pinchak, 294 F. 3d 492 - USCA, 3rd Cir. 2002 @ 502 ("Montgomery was not a sophisticated "jailhouse lawyer"). Tabron v. Grace, 6

F. 3d 147 - Court of Appeals, 3rd Circuit 1993 @ 156-157 (The plaintiff's ability to present his or her case is, of course, a significant factor that must be considered in determining whether to appoint counsel. See Hodge, 802 F.2d at 61; Maclin, 650 F.2d at 888).

In this case, Petitioner is homeless, live here and there, cars, an towed away. Suffering from spine injury.

In Bethel School District No. 403 et al. v. Fraser, A Minor, et al. 478 U.S. 675 (1986) (minor is party and his father was appointed as *Guardian ad litem*. See @ FRASER 680. The father brought the action in the Dist Court for FIRST AMENDMENT constitutional violation. In Board Of Education Of The Westside Community Schools (Dist. 66) et al. V. Mergens, By And Through Her Next Friend, Mergens, Et. 496 U.S. 226 (1990), @233 (Respondents, by and through their parents as next friends, then brought this suit in the United States District Court for the District of Nebraska for Constitutional violation. In ANKENBRANDT, as next friend and mother of L. R., et al. v. RICHARDS et al 504 U.S. 689 (1992) (mother is party and claimed as next friend to her minor daughter for tort claim.

In Jacob WINKELMAN, a minor, by and through his parents and legal guardians, Jeff and Sandee WINKELMAN, et al., v. PARMA CITY SCHOOL DISTRICT, 550 U.S. 516- 127 S.Ct. 1994 (2007),

In Winkelman, Parents on their own behalf and on behalf of Jacob, filed a complaint in the United States District Court for the Northern Dist of Ohio, later their appeal, without the aid of an attorney,

When the USSC examined "The question is whether parents, either on their own behalf or as representatives of the child, may proceed in Court unrepresented by counsel though they are not trained or licensed as attorneys"

And USSC ruled that (*Winkelman @2007*)

"The Court of Appeals erred when it dismissed the Winkelmans' appeal for lack of counsel.

It is beyond dispute that the relationship between a parent and child is sufficient to support a legally cognizable interest [in the education of one's child];

In this case, Children childsupport rights is under 14th amendment, Children Educational rights.

Winkelman @2008

"party aggrieved" means "[a] party entitled to a remedy; esp., a party whose personal, pecuniary, or property rights have been adversely affected by another person's actions or by a Court's decree or judgment" ante, at 2003-2004.

"rights and remedies are parents properly viewed as "parties aggrieved," capable of filing their own cases in federal Court. They [Parents] are "parties aggrieved" when those rights are infringed, and may accordingly proceed pro se when seeking to vindicate them"

Winkelman @2011

"They will have the same remedy as all parents who sue to vindicate their children's rights: the power to bring suit. I agree with the Court that they may proceed pro se with respect to the first two claims"

In this case, Appellant Karupaiyan not only guardians of their children's rights, Appellant Karupaiyan himself real party/plaintiff for his claims which is unlike Osei-Afriye, USCA3's ruling against this case Appellant father.

In this case Prose father parental rights under 14th amendment, Washington v. Glucksberg, 521 U.S.

702 (1997), *Troxel v. Granville*, 530 U.S. 57 (U.S. 2000).

Children has right on the Reverse of Parental rights, 14th amendment Equal Protection Clause.

1) *Rule 17(c) Robidoux v. Rosengren*, 638 F. 3d 1177 – USCA9 2011 @ 1182

“District Courts have a special duty, derived from Federal Rule of Civil Procedure 17(c), to safeguard the interests of litigants who are minors. Rule 17(c) provides, in relevant part, that a district Court “must appoint a guardian ad litem or issue another appropriate order”.

2) In *CJLG v. Barr*, 923 F. 3d 622 - Court of Appeals, 9th Circuit 2019, @632 “children have due process rights to appointed counsel. See, e.g., *In re Gault*, 387 U.S. 1, 36-37, 87 S.Ct. 1428, 18 *632 L.Ed.2d 527 (1967)”

In *CJLG* @ 633-639

*“When determining whether there is a right to counsel in civil proceedings, like here, the Court must “set [the] net weight” of those three factors “against the presumption that there is a right to appointed counsel only where the indigent, if he is unsuccessful, may lose his personal freedom.” *Lassiter v. Dep’t of Social Servs. of Durham Cty.*, 452 U.S. 18, 27, 101 S.Ct. 2153, 68 L.Ed.2d 640 (1981). The *Lassiter* presumption is rebuttable. *Id.* at 31, 101 S.Ct. 2153”. Mathews, 424 U.S. at 348, 96 S.Ct. 893. The government also has an interest in fair proceedings and correct decisions.*

In *CJLG* @ 639,

“Providing counsel would be costly to the government, but the government already chooses to undertake similar costs here. It would also lead to fairer, more accurate

decisions—decisions that a broader public might view as more legitimate”.

For reasons above, petitioners pray this Court for above prayers to be granted.

10) Order that TCS should pay \$20 million dollar to the Minor Petitioners PP and RP (“Minor Petitioners”).

Test-2: Valid Children Support Court orders to support the need of Minor Petitioners and the Petitioner Karupaiyan need to pay the child support thru the income from software engineer job. Till today the Child support orders were active.

Test-3: Only source of Income to the Petitioner Karupaiyan is working as IT/Software engineer which was denied by TCS for the purpose of outsourcing, discriminating US citizenship, favoring the foreigner against US citizen in employment and discriminating because of Hindu Black color, disabled/GINA Status. Since TCS denied the employment, Karupaiyan was not able to pay the child support. When the petitioner requested the TCS to remove the foreign engineer from Job and give that job which was denied and dishonored the family court order.

Children/Minor Petitioners rights were under 14th amendment constitutional rights which was violated by TCS by denial of employment to US Citizen petitioner Karupaiyan. And by outsourcing, TCS's CxOs were personally benefitted.

Sullivan @ 239

"[W]here federally protected rights have been invaded, it has been the rule from the beginning that Courts will be alert to adjust their remedies so as to grant the necessary relief. And it is also well settled that where legal rights have been invaded, and a federal statute provides for a general right to sue for such invasion, federal Courts may use any available remedy to make good the wrong done." Id., at 684."

For the above arguments, petitioners pray this court for order that TCS should pay \$20 million dollars to the Minor Petitioners PP and RP for the fundamental rights, constitutional rights were violated by TCS and its CxOs.

XXI. CONCLUSION

Petitioner(s) Palani Karupaiyan, PP, RP pray(s) the US Supreme Court for the Petition for a Writ of Certiorari should be granted.

Respectfully submitted.

lpp

*Palani Karupaiyan
July 2017*

Palani Karupaiyan, Pro se, Petitioner
1326 W. Williams St,
Philadelphia, PA 19132.
212-470-2048(m),palanikay@gmail.com

*Palani Karupaiyan
July 2017*