**Petition for issue of appropriate writ In the matter of Art. 226 of the Constitution of India**

In the High Court of Judicature at …………………

In the matter of Art. 226 of the Constitution of India

Civil Writ Petition No…….. of ……….

Name and Address :……………………….. Petitioner

…………………………………………….

versus

Municipal Board ……………………….. Respondents.

Petition for issue of appropriate writ

The petitioner above named submits as under :

1. That he is the owner and proprietor of a brick-kiln, known as "………" situate at………… within the Municipal limits of ………… in the district of……….

2. That on……….. the respondent has promulgated by No. 7 of the Bye-laws for regulating the burning or baking of tiles, pottery, lime and bricks, whereby a licence fee of Rs. …….. per year is payable in respect of every brick-kiln within the said……… Municipality.

3. The the petitioner protested against the levy of this exorbitant and arbitrary levy of licence fee.

4. (i) That the respondent does not incur any appreciable expenditure qua brick-kilns on the area surrounding thereto. There are many brick-kilns within the muncipal area and the licence fee so fixed is out of all proportion to the expenditure in this connection.

(ii) That in respect of licence fee, there must be correlation between the levy imposed and the expenses incurred by the authority making such levy for the purpose of rendering services in relation thereto.

(iii) The fee so charged must be earmarked to meet the expenses of rendering these services and must not go to the general revenue of the Municipality and it should not spend it for general purposes.

(iv) That no particular service is being rendered by the Muncipality with respect to the levy of this licence fee from brick-kiln owners.

5. That the respondent is prosecuting the petitioner in two criminal cases being Cr. Case No…….. of …….. and No…… of….. in the amount of…… at……. from breach of the said bye-law for non-payment of the said licence fee for the years……. and ……….respectively.

6. That the said licence fee being unreasonable and exortinate and of the nature of a tax, the bye-law No. 7 above named is illegal and ultra vires.

7. In the circumstances of this case, it is prayed that the criminal proceedings in Cr. Cases Nos…….. and ………. of …….. pending against the petitioner, in the court of……….. at …………. be quashed and a writ of mandamus be issued commanding the respondent not to enforce their bye-law No. 7 of the Bye-laws for regulating the burning or baking of tiles, pottery, lime and bricks within the municipality of………… against the petitioner.

N. B. - An affidavit in support of the petition is also filed herewith.

Dated ………………..

(Sd.)

Petitioner.

(Sd.)

Advocate, for the Petitioner.