

MOST URGENT

ITEM NO.37 Court 2 (Video Conferencing) SECTION PIL-W

**S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS****Sou Motu Writ (C) No. 5 of 2021****IN RE: ALARMING NEWSPAPER REPORT REGARDING KANWAR YATRA
IN STATE OF U.P.****Date : 19-07-2021 This petition was called on for hearing today.****CORAM : HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE B.R. GAVAI****For Petitioner(s) By Courts Motion, AOR****For Respondent(s) Mr. C.S Vaidyanathan, Sr. Adv
Mr. Garima Prasad, AAG
Mr. Saran Dev Singh Thakur, AAG
Mr. Mahesh Takur, Adv.
Mr. Pradeep Misra, AOR
Mr. Suraj Singh, Adv.****Dr. Abhishek Atrey, AOR
Ms. Ambika Atrey, Adv.****Mr. Tushar Mehta, SG
Ms. Aishwarya Bhati, ASG
Mr. S.P.V. Raju, ASG
Mr. Rajat Nair, Adv.
Mr. Zoheb Hussain, Adv.
Ms. Sairica Raju, Adv.
Mr. Kanu Agrawal, Adv.
Mr. Digvijay Dam, Adv.
Mr. B. V. Balaram Das, AOR
Mr. M. K. Maroria, Adv.****Mr. K. Radhakrishnan, Sr. Adv.****Mr. Vikas Singh, Sr. Adv.
Ms. Preeti Singh, AOR****Applicant-in-person, AOR**

UPON hearing the counsel the Court made the following
O R D E R

Mr. C. S. Vaidyanathan, learned senior counsel appearing for the State of Uttar Pradesh, has handed over an additional affidavit dated 19.07.2021, pursuant to our order dated 16.07.2021, in which it is stated as follows :-

"3. That pursuant to the order dated 16.07.2021 passed by this Hon'ble Court, the Government of Uttar Pradesh again convened a meeting of the U.P. State Disaster Management Authority on 17.07.2021 under the Chairmanship of the Hon'ble Chief Minister. The Addl. Chief Secretary Home informed the Authority that in response to the Appeal of the State Government, all the Kanwar Sanghs have given their positive response and all Police Commissioners, Divisional Commissioners, District Magistrates/SSPs/SPs have clearly given their report that all the Kanwar Sanghs of the respective districts have given in writing their consent that in view of health and safety of the Public, Kanwar Yatra will be postponed by them this year also.

4. That the State Disaster Management Authority (UP-SDMA) took cognizance of the above reports received from the various districts and has made the following recommendations :-

(I) SDMA agreed with the offer of the Kanwar Sanghs and welcomes their proposal that they will voluntarily not take out any Kanwar Yatra in the current year and they themselves have postponed the Kanwar Yatra. From this, it is clear that

like last year i.e. 2020, this year also there is no possibility of Kanwar Yatra.

(ii) Also, it is known that last year at the same time, the Covid-19 graph was on an increase whereas this year the level of Covid pandemic in the entire State is at its lowest with Covid positivity rate being only 0.042%.

(iii) Last year also keeping in view the decision of Sanghs to defer the Kanwar Yatra no orders were issued to restrict the Kanwar Yatra and no adverse situation had arisen. Therefore, the SDMA advised that like last year, keeping in view the decision of Kanwar Sanghs to voluntarily defer the Kanwar Yatra this year also, there is no necessity to issue any orders restricting Kanwar Yatra.

(iv) If at local level any devotee goes to local temple/shivalaya for Jalabhishek, then it will be necessary for them to fully comply with the existing Covid-19 protocol regarding religious ceremonies.

(v) SDMA also considered the fact that if orders are issued to restrict/ban the Kanwar Yatra, then demand can be raised to restrict other religious ceremonies of other religions /communities due to which social order could be affected.

(vi) All the religious organisations are giving their full support in the state of Uttar Pradesh and Priests (Dharam Gurus) have also made appeals to the people to comply with the Covid protocol.

(vi) The neighbouring States where restrictions have been placed/not placed on Kanwar Yatra, will ensure that Kanwar devotees from their respective

States do not enter in the State of Uttar Pradesh and Government of India should be requested to issue directions to this effect."

Considering that the pattern of last year is to be followed by the State of Uttar Pradesh, in which it is clear that the "Kanwar Sanghs" of the various districts have given in writing their consent that, in view of the health and safety of the public, the Kanwar yatra will be postponed this year also, it is necessary now to close this matter. We may only remind the authorities at all levels to have regard to Article 144 of the Constitution of India, and ensure that untoward incidents which directly affect the lives of the public will be looked upon sternly and prompt action taken immediately, reminding the authorities of a paragraph in our order dated 16.07.2021, which is set out once again, given the importance of the Citizens' of India's Right to Life :

"We are of the view that this is a matter which concerns everyone of us as citizens of India, and goes to the very heart of Article 21 of the Constitution of India, which has a pride of place in the fundamental rights Chapter of our Constitution. The health of the citizenry of India and their right to "life" are paramount. All other sentiments, al beit religious, are subservient to this most basic fundamental right."

We have also heard Sh. K. Radhakrishnan, learned senior counsel, who has intervened asking us to see that the Union of India and the State Governments are very vigilant and not

complacent, so that infectious or contagious diseases which have inter-state ramifications are fully contained. We appreciate the concern of Sh. Radhakrishnan, and have addressed this concern in the preceding paragraph.

In I.A.No. 83827 of 2021, Sh. Vikas Singh, learned senior counsel, appears on behalf of the applicant. The State of Kerala is represented by Sh. G. Prakash, learned counsel, who asks for time to file an affidavit in reply to this application. We give time until the end of today to file an affidavit in reply to this application.

The matter to be placed tomorrow i.e. on 20.07.2021 as first item.

(JAYANT KUMAR ARORA)
COURT MASTER

(NISHA TRIPATHI)
BRANCH OFFICER