

IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT
THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR
&
THE HONOURABLE MR. JUSTICE A.MUHAMED MUSTAQUE
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Monday, the 21st day of February 2022 / 2nd Phalgun, 1943
WP(C) NO. 11316 OF 2021(S)

PETITIONER

SUO MOTU PROCEEDINGS INITIATED BY THE HIGH COURT
IN THE MATTER OF EXTENSION OF ORDERS OF STAY GRANTED
BY THE HIGH COURT IN WP(C)NO.9400/2020(S) AND CUSTODY ORDERS
IN RESPECT OF CHILDREN ISSUED BY THE FAMILY COURTS, WHICH ARE
DUE TO EXPIRE OR COMMENCE DURING THE PERIOD OF
LOCKDOWN/COVID RESTRICTIONS.

RESPONDENT/RESPONDENT IN WPC NO.9400/2020(S)

1. STATE OF KERALA REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM, PIN 695 001.

This Suo Motu writ petition again coming on for orders upon perusing the petition, this Court's Judgment dated 06/08/2021 & Order dated 18/01/2022 and upon hearing the arguments of SRI.K.GOPALAKRISHNA KURUP, ADVOCATE GENERAL, SRI.S.MANU, ASSISTANT SOLICITOR GENERAL OF INDIA, SRI. T.A.SHAJI, DIRECTOR GENERAL OF PROSECUTION, SRI.RAJESH VIJAYAN, PRESIDENT OF THE KERALA HIGH COURT ADVOCATES ASSOCIATION and of SMT.P.K.SANTHAMMA, PRESIDENT OF THE KERALA FEDERATION OF WOMEN LAWYERS, the court passed the following:

P.T.0

S. MANIKUMAR, CJ, A. MUHAMED MUSTAQUE,J

&

SHAJI P.CHALY, J

I.A.No.1 of 2022 & W.P.(C) No.11316 of 2021

Dated this the 21st day of February, 2022

ORDER

S. Manikumar, CJ

On this day, when the matter came up for further hearing, inviting the attention of this Court to various Government Orders issued by the Disaster Management (A) Department, Government of Kerala, from 4.2.2022 to 16.2.2022, Mr.K.Gopalakrishna Kurup - learned Advocate General, submitted that taking into consideration of the spread of Omicron variant of COVID virus, restrictions imposed have been reduced.

2. For brevity, we deem it fit to re-produce the said Government Orders:

Government Order dated 4.2.2022

GOVERNMENT OF KERALA

Abstract

Disaster management – Restrictions imposed in the State in relation to containment of Covid -19- Revised Guidelines being issued.

Disaster Management (A) Department
G.O(Rt) No. 109/2022/DMD dated, Thiruvananthapuram, 04.02.2022

Read: 1. G.O.(Rt) No. 68/2022/DMD dated 20.01.2022
2. G.O.(Rt) No. 81/2022/DMD dated 24.01.2022

Order

The spread of Omicron variant of Covid Virus is increasing in the State. In the said circumstances, in continuation of the above referred Orders, it is hereby ordered to issue the following guidelines in exercise of the powers conferred on the Chairman of the State Executive Committee of the Disaster Management Authority in accordance with provisions of Section 20 (3) of the Disaster Management Act.

- 1) Restrictions which were imposed on 23rd and 30th of January will continue to be in force on 6th February, Sunday. Essential Services permitted as per reference (1) above can be permitted on this day.
- 2) Permission can be granted for educational institutions to start offline classes from 7th of February for standards 10, 11 and 12, graduate and postgraduate classes and tuition classes
- 3) Permission can be granted in all districts to conduct offline Classes from 1 to 9 and Crèches and kindergarten from 14th February.
- 4) In all districts, permission can be granted for entry up to a maximum of 20 persons in to places of worship. On Sunday, February 6th also, prayers can be permitted in places of worship with a participation of maximum of 20 persons

5) On the occasion of Attukal Pongala, 200 persons can be permitted for functions in the temple premises. Attukal Pongala will be permitted to be held in their own respective homes like last year.

6) Order referred to as (1) above must be implemented by District Disaster Management Authorities with the above modifications, in accordance with the revised classifications by the Health Department of A B and C category districts

By order of the Governor
Dr. V.P. Joy
Chief Secretary

Government Order dated 11.2.2022

GOVERNMENT OF KERALA
Abstract

Disaster management – Restrictions imposed in the State in relation to containment of Covid -19- Revised Guidelines being issued.

Disaster Management (A) Department
G.O.(Rt) No. 138/2022/DMD dated, Thiruvananthapuram, 11.02.2022

Read: 1. G.O.(Rt) No. 68/2022/DMD dated 20.01.2022
2. G.O.(Rt) No. 81/2022/DMD dated 24.01.2022
3. G.O.(Rt) No. 109/2022/DMD dated 04.02.2022

Order

The spread of Omicron variant of Covid Virus is increasing in the State. In the said circumstances, in continuation of the above referred Orders, it is hereby ordered to issue the following guidelines in exercise of the powers conferred on the Chairman of the State Executive Committee of the Disaster Management Authority in accordance with provisions of Section 20 (3) of the

Disaster Management Act

1) All religious functions, inclusive of Aluva Shivaratri, Maramon Convention and Attukal Pongala, can be held with participation up to a maximum of 1500 persons. The total permissible participation for each function has to be decided by the respective District Collectors at the rate of one person per 25 square feet.

2) Apart from what is stated as 1 above, Attukal Pongala shall be restricted to homes, as in the previous year, and will not be permitted in roads.

3) Entry will be restricted to those aged above 18 years and have either RT PCR negative certificates issued within 72 hours or those who have tested positive 4 in the previous three months and have certificate regarding the same. Asymptomatic Persons below 18 can participate along with their family members.

4) It must be ensured that all participants are using masks. Food articles must not be distributed in the Pantal. It must be ensured that organisers of public functions are following Covid protocol

By order of the Governor
Dr. V.P. Joy
Chief Secretary

Government Order dated 16.2.2022

GOVERNMENT OF KERALA
Abstract

Disaster management – Restrictions imposed in the State in relation to containment of Covid - 19 - cancellation of work from home – orders issued.

Disaster Management (A) Department
G.O(Rt) No. 154/2022/DMD dated, Thiruvananthapuram, 16.02.2022

Read: 1. G.O.(Rt) No. 40/2022/DMD dated 14.01.2022
2. G.O.(Rt) No. 68/2022/DMD dated 20.01.2022
3. G.O.(Rt) No. 81/2022/DMD dated 24.01.2022

Order

As per the orders referred to above, certain categories of personnel in government and private institutions were permitted to work from home. The said relaxation is hereby withdrawn with effect from the date of this order.

By order of the Governor
Dr. A. Jayathilak IAS "

3. Mr.K.Gopalakrishna Kurup - learned Advocate General, also invited attention of this Court to the notice dated 16.2.2022 issued by the High Court of Kerala, following the decision of the Hon'ble Full Bench of this Court. The said notice is re-produced hereunder:

THE HIGH COURT OF KERALA

A7-3845/2022

Kochi:682 031
Date:16.02.2022

NOTICE

Sub: Functioning of High Court – arrangement in view of surge
in Covid cases – instructions issued – reg.

Ref: High Court Notice of even number dated 15.1.2022

It is hereby informed that arrangements with regard to the hearing of cases in the High Court, made in view of the surge in Covid- 19 cases in the State, vide notice cited, will continue for the next one month or till Test Positivity Rate (TPR) of Covid – 19 pandemic goes down to 10%, whichever is earlier.

(By Order)

Sd/-

P.Krishna Kumar

Registrar General

4. Pointing out that there is fluctuation in the test positivity rate, yesterday, about 11%, learned Advocate General, submitted that the interim order dated 18th January, 2022 in W.P.(C) No.11316 of 2021, be extended upto 16.3.2022.

5. We have gone through the Government Orders. There is no contra view expressed by other learned counsel. Thus, taking into consideration the test positivity rate and also the submission of the learned Advocate General, interim order dated 18th January, 2022 in W.P. (C) No.11316 of 2021, is extended upto 16.3.2022.

6. Registry is directed to post the writ petition on 15.3.2022.

7. Though, the Kottakkal Co-operative Urban Bank Limited No.1378 has filed I.A No. 1 of 2022 in W.P.(C) No.11316 of 2021, to implead itself as an additional respondent, Mr.Devaprasanth.P.J. - learned counsel for the proposed additional respondent submitted that the Bank would follow the general order dated 18.1.2022, extended today upto 16.3.2022.

Placing on record the said submission, no order is required in I.A.No.1 of 2022 and I.A.No.1 of 2022 is closed accordingly.



Sd/-

**S. MANIKUMAR,
CHIEF JUSTICE**

Sd/-

**A.MUHAMED MUSTAQUE
JUDGE.**

Sd/-

**SHAJI P. CHALY,
JUDGE.**

smv