

ITEM NO.11 Court 5 (Video Conferencing) SECTION XI-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s). 16197/2021

(Arising out of impugned final judgment and order dated 28-09-2021 in WPC No. 17071/2021 passed by the High Court Of Kerala At Ernakulam)

A.K.M. ASHRAF Petitioner(s)

VERSUS

UNION OF INDIA & ORS. Respondent(s)

(IA No.130872/2021-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.130876/2021-EXEMPTION FROM FILING AFFIDAVIT )

Date : 29-10-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE L. NAGESWARA RAO  
HON'BLE MR. JUSTICE B.R. GAVAI

For Petitioner(s) Mr. Haris Beeran, Adv.  
Mr. Mushtaq Salim, Adv  
Mr. Usman Gani Khan, Adv  
Mr. Azhar Assees, Adv  
Mr. Anand B Menon, Adv  
Mr. Radha Shyam Jena, AOR

For Respondent(s)

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

The petitioner who is a Member of Legislative Assembly elected from Manjeshwaram constituency, Kasaragod District has filed a writ petition in the High Court of Kerala seeking a direction to the Union of India to ensure that possession of a negative RT-PCR certificate taken

within 72 hours is not mandatory for daily commuters from Manjeshwaram, Kasaragod District to the State of Karnataka. The further direction was sought in the writ petition to the Union of India to open the border with Karnataka and in particular Kasaragod-Mangalore border at Thalappady. The petitioner also sought a direction to the Union of India to ensure free movement of daily commuters who have taken at least 1<sup>st</sup> dose of Covid vaccine through the border without insisting on a negative RT-PCR certificate taken within 72 hours.

The writ petition was dismissed by High Court of Kerala on 28.09.2021, mainly on the ground that the High Court has no territorial jurisdiction as no cause of action has arisen in the State of Kerala.

Mr. Haris Beeran, learned counsel appearing for the petitioner submitted that people in Kasaragod depend on Mangalore city for education, medicare and other needs. Their travel to Mangalore on a daily basis has been inhibited by circulars issued by the State of Karnataka whereby the commuters from Kerala to Karnataka are required to produce a negative RT-PCR report which is valid for 72 hours.

Mr. Beeran referred to the guidelines dated 25.08.2021 issued by the Government of India

advising the State Governments/Union Territories not to place any restrictions on inter-state travel by air, rail, water or road. In case of RT-PCR or RAT being required prior to entry, entry in a State, the State Government shall publicize the requirement widely to maximize traveler convenience. He referred to Clause 6(3) by which the Government of India recommended that asymptomatic patients or persons who have been vaccinated from being exempted from the mandatory requirement of possessing a RT-PCR or RAT report on their entry into the State.

There is no restriction of movement of citizens from Kerala to Karnataka. The circulars issued by the Government of Karnataka insist on a negative RT-PCR certificate from people traveling to Karnataka from Kerala. The revised circular issued by the State of Karnataka on 31.07.2021 relaxed the earlier condition of undergoing a RT-PCR test within 3 days prior to the visit to 15 days for students and other members of the public visiting Karnataka daily for education, business and other reasons.

There is no violation of any fundamental right of persons living in Kasaragod District to travel to Mangalore or other parts of the State of Karnataka. Circulars issued by the State of Karnataka cannot be interfered by this Court in the

interest of public health.

Therefore, we see no reason to interfere with the order passed by the High Court. The special leave petition is, accordingly, dismissed. Pending application(s), if any, shall stand disposed of.

Needless to say that the petitioner is at liberty to make a representation to the State of Karnataka for relaxation of the conditions imposed by the circulars for entry for people from Kerala into the State of Karnataka, which shall be considered in accordance with law.

(Geeta Ahuja)  
Court Master

(Anand Prakash)  
Court Master