

IN THE HIGH COURT OF MANIPUR

AT IMPHAL

PIL No. 27 of 2021

Shri Aribam Jankinath Sharma

*Petitioner*

**Vs.**

State of Manipur; & Ors.

*Respondents*

**BEFORE**

**HON'BLE THE CHIEF JUSTICE MR. SANJAY KUMAR**

**HON'BLE MR JUSTICE KH NOBIN SINGH**

**13.05.2021**

***Sanjay Kumar (C.J.):***

[1] Heard Mr. N. Jotendro, learned senior counsel, appearing for the petitioner.

[2] Admit.

[3] Mr. N. Kumarjit, learned Advocate General, Manipur, takes notice for all the respondents and waives further notice. He seeks time to file a reply.

[4] Challenge in this writ petition, filed in public interest by a practicing Advocate, is to the orders dated 06.05.2021, 07.05.2021 and 11.05.2021 of the Government of Manipur. Certain directions are also sought to the authorities in relation to the situation prevailing in affected areas, consequent to the orders impugned.

[5] By the first impugned order dated 06.05.2021, the Government of Manipur, in exercise of power under Section 20(2)(a) of the Disaster Management Act, 2005, extended the operation of its earlier orders dated 29.04.2021 and 04.05.2021, declaring the whole of Greater Imphal as a containment zone, from 07.05.2021 to 16.05.2021. The Government also

imposed restrictions over other parts of the State, including night curfew. Thereafter, by the order dated 07.05.2021, the Government of Manipur, in exercise of power under Section 20(2)(a) read with Section 22 of the Disaster Management Act, 2005, imposed curfew in the districts of Imphal West, Imphal East, Bishnupur, Thoubal, Kakching, Churachandpur and Ukhruul from 08.05.2021 to 17.05.2021. This order enumerated permitted activities in the curfew-bound areas and made it clear that the instructions issued under the earlier order dated 06.05.2021 would apply in other parts of the State. By the last order dated 11.05.2021, noting that complete closure of certain critical services had led to difficulty in provision of Government services or undue hardship to the public, the Government of Manipur considered it appropriate to permit certain activities/services and, in exercise of power under the aforesaid statutory provisions, the Government allowed the enumerated activities/services in addition to those permitted by the earlier order dated 07.05.2021, subject to observation of social distancing, wearing of masks and sanitization norms.

[6] The measures put in place by way of the aforesaid orders have, as yet, not yielded the coveted result as Covid-19 cases and related fatalities continue to rise at an alarming rate, as per newspaper reports. In these circumstances, there is every likelihood of the restrictions introduced by the Government of Manipur being continued further. It is for the Government of Manipur to put in place and implement cohesive measures to contain the spread of the virus. Be it noted that as long back as on 16.07.2020, a Division Bench of this Court, *vide* the Judgment and Order in PIL No. 16 of 2020, directed the Government of Manipur to constitute a committee of experts to analyze the required data so as to facilitate the High Level Consultative Committee, headed by the Chief Minister, Manipur, to take appropriate decisions as to remedial measures and to formulate an effective action plan well in advance to face the challenges in combatting the Covid-19 crisis. Mr. N. Kumarjit, learned Advocate General, Manipur, seeks time to ascertain as to what steps were taken pursuant

to the aforesaid Judgment and as to what future measures are being contemplated by the Government of Manipur to meet the challenges occasioned by the second wave of the pandemic.

**[7]** This being one aspect of the matter, there can be no doubting the fact that people in curfew-bound areas and elsewhere in the State of Manipur are currently facing a number of difficulties. The very fact that the Government of Manipur came out with certain relaxations in its last order dated 11.05.2021 indicates that the public were being put to undue hardship. The order itself says as much. Such aspects ought to have been taken into consideration by the Government at the time of imposition of the restrictions but wisdom in that regard seems to have dawned only at a later stage, leading to the last order of relaxations. Even so, certain aspects still remain to be addressed or need clarification, as rightly pointed out by Mr. N. Jotendro, learned senior counsel.

**[8]** It may be noted that the first order dated 06.05.2021 issued by the Government of Manipur posited that Post Offices should not entertain routine business though they were to remain open from 10:00 am to 2:30 pm. This Court is informed that this embargo effectively prevented the use of Post Offices' facilities by the general public, including dispatch of money orders. During these cash-strapped times, those in the State of Manipur or elsewhere who wish to come to the financial aid of their friends or relations in other parts of the country, including the State of Manipur, may wish to send them money orders. Barring them from doing so, even though Post Offices are allowed to remain open, cannot be countenanced. The Government of Manipur may therefore allow such transactions through Post Offices, while scrupulously adhering to Covid-19 protocols, including social distancing and wearing of masks, under strict monitoring by the staff of the Post Offices concerned.

**[9]** Similarly, the order dated 06.05.2021 allowed branches of Banks to remain open from 10:00 am to 2:30 pm only for Government transactions and for transactions related to Government Projects/urgent matters. However, by the

order dated 11.05.2021, the Government relaxed this restriction and stated that banking services, with limited staff, would be permitted on Monday, Wednesday and Friday from 10:00 am to 2:30 pm for Government and non-Government transactions. This order also permitted ATM services.

**[10]** When the Government thought it fit to allow shops to remain open from 6:00 am to 10:00 am every day to cater to the needs of the people, it was also incumbent upon the Government to ensure that people have access to their monies to buy essentials during that permitted time. The closure of ordinary activities of Banks and ATM services, pursuant to the order dated 06.05.2021, effectively curtailed the general public from accessing their own monies in bank accounts to buy essential items, including food and medicines. However, now that the Government has permitted such activities by way of its last order dated 11.05.2021, we deem it necessary only to clarify that non-Government transactions would include deposit of cash and cheques and withdrawal of cash by all bank customers during the permitted time. Further, the Government of Manipur shall ensure that all the Banks concerned stock sufficient cash in their ATMs installed at different locations, so that people are not constrained to move from one ATM to another in search of cash. Be it noted that a local newspaper recently reported that bank officials were at a loss as to whether they could replenish cash in ATMs, owing to the lack of clarity in the restrictions put in place by the Government. This aspect therefore needs to be clarified by the Government so that Banks do the needful in this regard.

**[11]** Further, the Government's order dated 06.05.2021 indicated that all pharmacies, including those selling veterinary medicines, were exempted from restrictions. However, this Court is informed that those going to buy medicines during the daytime are being accosted by the police and subjected to harassment, if not arrest and/or fines, if they are not in a position to produce a doctor's prescription of recent origin. As rightly pointed out by Mr. N. Jotendro, learned senior counsel, all medicines need not be purchased under prescription

and several 'over-the-counter' (OTC) drugs are available for health issues which do not require a doctor's care, such as a headache, a sprain, etc. People proceeding to a medical shop to buy such drugs/medicines may not have a prescription from a doctor. Similarly, those who take drugs/medicines for long-term medical conditions, such as blood-pressure, cholesterol, etc., may not be in a position to produce a doctor's prescription of recent origin. The Government must therefore sensitize its ground-staff, including the police, and ensure that such people are not subjected to harassment when they go out to access pharmacies in their localities.

**[12]** Further, it is a contradiction in terms for the Government to say that pharmacies are being kept open throughout the day and to view with suspicion every person who says that he is going to a pharmacy. No doubt, there are bound to be miscreants who abuse the liberty afforded by this relaxation, but it would be for those monitoring movements on the road to distinguish between genuine pharmacy-goers and vagabonds who are out for a lark. It is for the Government to provide adequate machinery to sensitively monitor and address misuse and abuse of this relaxation, but in the guise of strict implementation, the Government and the police cannot subject genuine pharmacy-goers to harassment, merely on the ground that they have no doctor's prescription or a doctor's prescription of recent origin.

**[13]** In this regard, the Government shall also ensure that all the pharmacies in the affected areas are adequately stocked with every kind of drug/medicine, including OTC drugs, so that needy customers are not driven from one pharmacy to another in search of their desired drug/medicine.

**[14]** This Court is informed that the Government of Manipur had advocated a particular policy for opening of shops during the permitted time, under its earlier order dated 06.05.2021, but the same was discarded after imposition of curfew and that there is no clarity as on date as to the manner in which wholesale and retail shops are to be opened during the relaxation hours.

Further, this Court is also informed that shops, even if opened, are not in a position to cater to the needs of customers due to shortage of vegetables and other essential items. It is not enough for the State Government to merely allow shops to be kept open during relaxation hours. The State Government must also ensure that such shops are adequately stocked with necessary produce and goods, including vegetables, so as to meet peoples' needs. More so, when only four hours of operation are permitted during each day. The State Government shall therefore ensure that sufficient number of well-stocked shops are kept open in each and every market area, so that people from one area are not driven to access shops in another area due to shortage of vegetables/goods/food items.

**[15]** These directions are being issued, pending consideration of the larger issues raised in this writ petition, to alleviate and address the immediate and pressing plight faced by people in affected areas. The Government of Manipur shall issue necessary orders to give effect to these directions and clarifications forthwith. That being said, this Court would be failing in its duty if it does not take note of the unfortunate fact that people, in general, are also not living up to the required expectation at this time of crisis. Every citizen must be aware and conscious of not only his rights but also his duties. Every lawful right entails a lawful duty and this concept would work both ways between the State and the individual. More so, at a time like this, when the entire nation is being ravaged by the second onslaught of this deadly pandemic. It is incumbent upon each and every one of us to be mindful of the care and caution that has to be exercised to arrest the spread of the virus, *i.e.*, by staying home, shunning avoidable human contact, and restricting physical human-interactions to the bare minimum. Wearing of masks and social distancing are norms which need to be adhered to scrupulously, notwithstanding one's own opinions and whims. Misuse and abuse of the relaxations granted by the Government, in violation of these norms, can only lead to further disaster.

It is therefore not only for the State administration to be mindful and conscious of what is required of it at this time and to rise to the occasion but also for each and every citizen to do all that is within his ken to arrest the spread of this virus.

**[16]** For the reply of the respondents, post on 02.06.2021.

*Sandeep*

**JUDGE**

**CHIEF JUSTICE**