

HIGH COURT OF ANDHRA PRADESH: AMARAVATI

CHIEF JUSTICE J.K. MAHESHWARI

&

JUSTICE M. SATYANARAYANA MURTHY

TAKEN UPWRIT PETITION No.8130 of 2020

In Re. Corona Virus – COVID-19 PANDEMIC

Versus

1. State of Andhra Pradesh, rep. by its Chief Secretary
2. Union of India, rep. by its Secretary, Home Affairs and others

... Respondents.



Counsel for the respondents :Special Government Pleader
for Advocate General

ORAL ORDER

Dt:26.03.2020

Per J.K. Maheshwari, CJ

In view of the epidemic crisis on account of Corona Virus COVID-19 and to take preventive measures, for the purpose of limited functioning of the High Court as well as the Subordinate Courts, directions were issued on 16.03.2020, 24.03.2020 and 26.03.2020. In view of the Hon'ble Prime Minister's call declaring lock-down for 21 days from the midnight of 24.03.2020, the directions issued by the Ministry of Human Resources dated 24.03.2020 and also the order passed in Suo Motu Writ Petition (C) No.1 of 2020 by Hon'ble the Supreme Court on 23.03.2020, in addition to the various contingencies which have been reported to the Registry of this Court through the Registrar (Judicial), regarding the access to the boundaries of the State of Andhra Pradesh by various permanent residents

of this State on account of their release by the Telangana State, with no objections, problems faced by the Doctors working in Primary Health Centres and to review the functioning of the Court, this Court deems it appropriate to take this matter as *pro bono publico* with intent to avoid unnecessary complications. This Court is also of the view that health of a citizen is within the purview of Article 21 (Right to Live) guaranteed to a citizen to live in healthy atmosphere. Further, the different problems which are being complained to the Registry of this Court to take up various cases for hearing, the cognizance has been taken.

2. It is to be noted here that previously, regarding functioning of the High Court and subordinate Courts, notifications were issued on 16.03.2020, 24.03.2020 and 26.03.2020 with exhaustive directions. Thereafter, it was brought to the notice by the Registrar (Judicial) that number of persons who have been left by the Telangana State, by certification to go home, are stranding on the limits of the boundaries of the State of Andhra Pradesh, but they are not being allowed to enter into, however, mass gathering is there. In rebuttal to the same, as per the instructions, Sri C.Sumon, Government Pleader, representing the learned Advocate General, states that (44) persons who agreed to go quarantine have been permitted to undergo observation and the remaining persons have been sent back to the Telangana State. It is a fact that the said persons were returned to the State of Andhra Pradesh because they are natives/residents of the State of Andhra Pradesh and their families are here. It has also been reported that some females along with children and pregnant women were stopped for a long time; however, the said issue is

also related to the health of the citizens and necessary for preventive measure of transmitting pandemic Corona Virus COVID-19.

3. It is further brought to the notice of the Registrar (Judicial) that at several places, under the orders of the Revenue Divisional Officers, the authorities of Revenue or Municipalities and Panchayat are reaching on the spot for demolition, dispossession/eviction; however, insisting to hear those cases. It has also been brought to the notice that in number of cases, the bank authorities are going to auction the premises during this period in view of the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002; however, insistence is made to take up these matters. It has also been informed by number of Advocates that without calling for tenders, entrustment of work by nomination is being made on the lapse of the period of lease. It has also been brought to the notice that in the matters in which interim orders were passed by the High Court and subordinate Courts and Tribunals, stay has been granted for a limited period, however, extension of stay has further been sought for.

4. Simultaneously, in view of the order passed by Hon'ble the Supreme Court on 23.03.2020 in *Suo Motu Writ Petition (C) No.1 of 2020*, measures are required to be taken with respect to the prisoners who are in jail in view of the resolution of the Committee so formulated by the Supreme Court. It is reported that, today, i.e. on 26.03.2020, in the proceedings in the presence of the Executive Chairman, State Legal Services Authority, Executive Chairman, High Court Legal Services Committee, Principal

Secretary, Home and Director General of Prisons, certain recommendations have been made, which are as under:

"At the very outset, before getting more details regarding number of prisoners in different prisons in the State, in compliance with the orders of the Hon'ble Supreme Court, the Committee has resolved, firstly, to give a proposal to the Hon'ble Chief Justice for constituting a bench for issuance of general direction to all the Jail Superintendents regarding release of prisoners provisionally for a period of four(4) weeks on bail to those prisoners who are either convict or under trial for offences in which maximum sentence prescribed is not more than seven (7) years. However, this benefit can be given to only those under trials/prisoners who are not accused in more than one case and also are not accused in cases relating to offence under Section 376 IPC or offences under the POCSO Act.

Regarding inmates of juvenile remand homes, information was furnished by the Director, Social Welfare, Ms.Krithika Shukla, that considering the limited number of such inmates and available space, social distancing can be maintained in the remand homes itself. In view of such information furnished by the Government, the Committee presently resolved not to issue any direction in this line.

In view of the guidelines of Hon'ble Supreme Court in ***Inhuman Conditions in 1382 v. State of Assam*** {(2016) 3 SCC 700}, and ***Arnesh Kumar v. State of Bihar*** {(2014) 8 SCC 273}, on collecting detailed information regarding number of prisoners kept in different jails and availability of proper space, the Committee may, after collecting such information, sit for further decision after two (2) days.

It is further clarified that after being released on provisional bail, the said prisoners/under trials will ensure to remain in quarantine for fourteen (14) days. This privilege for grant of provisional bail may not be applicable to the prisoner/undertrials, who are diagnosed with autoimmune diseases, which can be clarified by the respective medical officers of the jails."

5. It has been brought to the notice that necessary essential facilities are not available to the citizens in the State of Andhra Pradesh providing food, treatment to poor and other facilities. Considering all these aspects, in the present situation of lock-down in which citizens are not permitted to move and approach the Court, however, we deem it appropriate to issue the following directions as an interim measure:

- (i). All the cases in which interim orders were passed by the High Court, District Courts, Civil Courts, Family Courts, Labour Courts, Industrial and other Tribunals, functioning in the State of Andhra Pradesh, over which the High Court has the power of superintendence and the stay has expired two weeks prior or are due to expire within a period of one month, shall continue to operate for a further period of one month from today. It is made clear here that interim orders which are having a limited duration shall continue to operate until further orders;
- (ii). In criminal matters where bail/suspension has been granted by the Court either anticipatory or regular for a limited period, which are likely to expire within one month from today, shall be automatically extended for a further period of one month from today;
- (iii). In the matters in which demolition, dispossession, eviction, auction is in question, in those cases, if limited stay is granted, it be treated to be extended for one month or otherwise, the instrumentalities shall not proceed for the above until one month from today;
- (iv). In the matters of tenders, if they have not been finalized, they shall not be given effect to for a period of one month and the process may be made after expiry of the lock-down period.
- (v). As this Court feels that the citizens are not in a position to reach the Court on account of lock-down of the boundaries and surveillance by the Police, however, for redressal of their

grievance, we have been developing a URL, which shall be notified by Registrar General. Publishing URL in the official website of the High Court for e-filing to Advocates is only with regard to genuine grievances. They may submit their petitions by way of e-mail, viz., regjudaphc@nic.in on the same lines till then. On submission of the petitions, the Government may submit their objections and they shall be considered for the purpose of interim relief by the High Court through the Benches constituted by the Chief Justice, by way of Video Conference and if necessary opportunity of personal hearing may be offered on demand. Otherwise, interim relief may be considered on the facts and circumstances of the case;

- (vi). The State Government is directed to ensure and provide all necessary equipment like N-95 masks, sterile medical gloves, starch apparels, personal protection equipment and all other necessary things to the Doctors in the dispensaries and other Paramedical staff, thereby they may be in a position to provide medical aid to the citizens;
- (vii). The issue regarding entry on boundaries of the State of Andhra Pradesh is concerned, it is directed that no mass gathering shall be allowed by the authorities of both the States. The officers of both the States shall follow National Protocol or otherwise looking to the peculiar situation in which the citizens of the State of Andhra Pradesh have been left over by the Telangana State, to go to their homes, taking due steps for quarantine process, by staying at their homes through such undertaking, on necessary tests, the National Protocol shall be observed by them. In any case, care of females with children and pregnant women must be undertaken by the authorities with humanity; however, officers of both the States shall observe National Protocol applying exceptional circumstances with due care.
- (viii). As per the resolution of the committee formulated by the Supreme Court, dated 26.03.2020, it is directed that the convicts

or under-trial offenders for the offences to which maximum sentence prescribed is not more than (7) years, may be released on interim bail on furnishing adequate bail bonds if they are not second offenders and also not offenders under Section 376 of IPC and POCSO Act, for a period of one month. For the purpose of bail bond, it is however directed that the Principal District and Sessions Judge shall assign the Judicial Magistrate to reach the District Jails on being asked by the Superintendent of the Central Jail of his area, for furnishing/accepting adequate bail bonds to the satisfaction of the Magistrate, for their release to a limited period. The undertaking shall be taken from them for having quarantine for 14 days at their home under the surveillance of the Doctor with the help of the Police.

- (ix). Violation of conditions would entail cancellation of the interim bail/suspension and such persons who violate the conditions may be taken to custody immediately;
- (x). As stated by the Director of Social Welfare, Ms.Kritika Shukla, that limited number of inmates are in the remand homes, however, due care and caution be taken for social distancing to those children in the remand homes. The said social distancing must be maintained in the CCIs., and SAAs., in the State.
- (xi). In the case of health checkup, the State shall protect the confidentiality regarding patients and the poor patients shall not be discriminated with others. It is further to direct that marginalised and poor must have access to healthcare and they should be provided adequate food facilities; thereby they should not sleep with empty stomach in the night;
- (xii). Essential items may be made available to the citizens as specified in the circular issued by the Ministry of Home Affairs dated 24.03.2020 specifying the protocol to those vendors;
- (xiii). The Police, Doctors, paramedical staff and other persons engaged in these days may be provided adequate facilities on account of rendering emergent services by them.

(xiv). Because of the fact that flights, trains have been stopped and the road transportation has also been checked due to lock-down, but in the State of Andhra Pradesh, there is a coastal area, where ships are coming to the ports, however, due care and caution as directed by the Central Government must be taken by the authorities in the ports at Visakhapatnam, Kakinada, Machilipatnam, Kalingapatnam and other sea ports and the port authorities are directed to take special measures in this regard in coordination with the State authorities.

6. The above directions shall remain in force for a period of one month.

**J.K. MAHESHWARI, CJ
MRR**

M. SATYANARAYANA MURTHY, J

