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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL WRIT PETITION NO. LD-VC-6 OF 2020

Binny Dholani Petitioner
V/s.
State of Maharashtra and Ors. Respondents

Mr. Girish Menon for the Petitioner-Mr. Binny Dholani.

Mr. P.P. Kakade, Government Pleader, with Mr. Manish Pable,
A.G.P., for the Respondent-State.

Mr. Anil Singh, Additional Solicitor General, with Mr. Aashish
Mehta, for the Respondent Nos.6, 8, 9 and 10-UOI and DGCA.

Mr. Ranjit Kumar Dev Choudhary, Senior Government
Advocate, for Respondent Nos.2 to 5.

CORAM : A.K. MENON, J.

DATE in: 7TH APRIL 2020.

[THROUGH VIDEO CONFERENCE]

P.C. :

1. This hearing is convened on the video conferencing facility provided by the registry in view of restrictions placed on the personal hearings in a court room and in view of the social distancing requirements resulting from the COVID 19 pandemic. The matter has been listed today at the request of the petitioner's Advocate and considering the urgency mentioned. The Advocates for the respondents have participated in this hearing by video conference albeit at short notice.

2. This is an application filed by an individual in the form of a letter addressed to the Hon'ble the Chief Justice seeking registration of the letter as a writ petition and seeking directions against the respondents including Ministry of Home Affairs, District Collector, Pune and Ministry of Civil Aviation and Ministry of Road Transport and Highways. Having considered the facts, I direct that the letter addressed by the petitioner be treated as a Writ Petition and shall be numbered as such in due course. Mr. Menon submits that all office objections will be complied once the lockdown is lifted. Mr. Menon submits that all office objections will be complied once the lockdown is lifted.

3. The petitioner's father has expired on 5th April 2020 in Lanka in the State of Assam, apparently after suffering a heart-attack and the petitioner is desirous of travelling to Assam by flying via Gauhati on any cargo flight or any other flight available from Pune to Gauhati or in such other manner that he may be permitted to travel. He states that he is required to attend at Lanka - Assam to attend to the last rites and ceremony being the only son of the deceased. Since movement is restricted by virtue of the lock-down, he seeks a direction to the concerned authorities to permit him to take a flight and to make necessary arrangement to enable him to reach Assam.

4. The application was lodged on 5th April 2020 and was brought to my attention on 6th April 2020. An attempt was made to schedule an urgent hearing on Monday, the 6th April 2020; however, due to obvious difficulties in getting the petitioner to serve the respondents and to enable him to engage an Advocate to conduct the matter on the video conference facility, the matter was listed today.

5. Heard Mr.Menon for the petitioner; Mr.Anil Singh, learned Additional Solicitor General, i/by Mr. Aashish Mehta, on behalf of respondent-Union of India; Mr. Kakade, learned Government Pleader, i/by Mr. Manish Pable, on behalf of respondent-State and; Mr. Ranjit Kumar Dev Choudhary, Senior Government Advocate, on behalf of respondent nos.2 to 5.

6. Learned Advocate for the petitioner submits that on account of the demise of the petitioner's father, the petitioner is desirous to travel to Lanka - Assam and that the directions may be issued to arrange the flight. On behalf of respondent nos.6, 8, 9 and 10-UOI and DGCA, the learned ASG appears on notice and submits that it is not only the case of the petitioner but there are several other persons who have passed away, some after being afflicted by Covid-19 and some for other reasons, but in no case would passengers be permitted on flights in view of the specific directions of the Union of India and the Order issued by the Director General of Civil Aviation. Only flights specified in the Order of DGCA dated 23rd March 2020 copy of which is annexed to this application at page no.11 are permitted.

7. The learned ASG submits that the petitioner's request cannot be accommodated within the permissible flights detailed in the said order and no exception can be made in his case. Mr. Singh however states that if the petitioner is desirous of travelling by road, he has instructions from the necessary authorities to state that the Union of India will permit passage by road if the petitioner so desires. He further submits that the necessary instructions will be given to the Pune Collectorate and necessary steps thereafter be taken to facilitate the petitioner's travel by road.

8. In view of the statement, the learned Advocate for the petitioner, after telephonic consultation during this hearing, has confirmed that he will intimate the Advocate for the Union of India in the next few days and in any event before 15th April 2020 if the petitioner alone intends to travel by road to Lanka - Assam or otherwise. He seeks some time to convey these instructions in view of the fact that the petitioner's mother is also unwell and is required to be taken to the hospital for treatment.

9. In this view of the matter, I pass the following order :-

- (i) The statement made the learned ASG on behalf of the respondents nos.6, 8, 9 and Union of India will permit passage of the petitioner by road, if he is so desires, is accepted.
- (ii) Petitioner shall be at liberty to apply for road travel to the appropriate authorities to be specified by the respondent-Union of India.
- (iii) If such an application is made, Mr. Singh assures the court that necessary instructions will be issued.
- (iv) Once the petitioner decides, he is directed to convey the road route that he intends to take to reach his destination so that the authorities would be aware of the various point of exit from and entry to states through which he would pass at state borders in order to enable him to reach Lanka - Assam.
- (v) The petitioner's Advocate undertakes to ensure that this application is lodged in the court and

upon cessation of lockdown and thereupon it shall be numbered as a regular writ petition.

- (vi) All concerned to act on a copy of this order digitally signed by the Personal Secretary.
- (vii) S.O.per CMIS.

(A.K. MENON, J.)

