

IN THE HIGH COURT OF JHARKHAND AT RANCHI

W.P.(PIL) No. 1301 of 2020

Court on its own motion

Versus

State of Jharkhand & Ors. Respondents

with

W.P.(PIL) No. 1302 of 2020

Court on its own motion

Versus

State of Jharkhand Respondent

with

W.P.(PIL) No. 1305 of 2020

Amarjeet Singh Petitioner

Versus

Chief Secretary, State of Jharkhand & ors. Respondents

with

W.P.(PIL) No. 1308 of 2020

Court on its own motion

Versus

State of Jharkhand Respondent

**CORAM: HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SUJIT NARAYAN PRASAD**

For the Petitioner : Mr. Sonal Tiwary, Advocate
[in W.P.(PIL) No. 1305 of 2020]
For the State : Mr. Rajiv Ranjan, Advocate General
For the UOI : Mr. Rajiv Sinha, ASGI
For the RIMS : Dr. A.K. Singh, Advocate

Oral Order

Per Dr. Ravi Ranjan, C.J.

06/Dated:25.04.2020

1. We have heard the parties.
2. In the context it requires to refer herein that Ranchi, capital town of the State of Jharkhand and the district of Bokaro have been declared to be the red zones by the Ministry of Home Affairs, Government of India, New Delhi. Further, the area known as "Hindpiri" in the capital town of Ranchi has been declared to be the hotspot and as reported number of persons suffering from positive Covid-19, who are inhabitants of the locality of Hindpiri area is increasing day by day. These facts have been admitted by the learned Advocate General appearing for the State of Jharkhand.

3. Pursuant to the order dated 17.04.2020, affidavits have been filed on behalf of the State of Jharkhand through the Chief Secretary as also on behalf of the Union of India through Health and Family Welfare Department, Ministry of Home Affairs and Indian Council of Medical Research, Government of India, New Delhi.

4. Learned Advocate General appearing on behalf of the State of Jharkhand has submitted that the queries, as put forth by this Court in terms of the order dated 17.04.2020, have duly been replied.

5. We have gone through the affidavit filed on behalf of the State of Jharkhand. However, we are not fully satisfied with the reply put forth therein since the Court had made query being Query No.(i) to the effect as to what policy has been framed by the State of Jharkhand to completely observe the MHA guidelines for lockdown and what action is purported to be taken if any person is found to be negligent in discharging such duties in compliance of such policy and in the affidavit at paragraph no.6(a) it has been stated that the direction for strict compliance of MHA guidelines has been given to all the district as also a State Level Lockdown Implementation Task Force has been formed for monitoring the implementation of lockdown orders but so far as the specific query put forth by this Court as to what action is purported to be taken if any person has been found to be negligent in discharging such duty in compliance of such policy, has not been dealt with.

6. So far Query No. (iii) which pertains to the steps to be taken by the State Government for effective sealing of the district boundaries so that the moment anyone if wants to cross the district boundary without any valid authority, is completely checked/stopped at the entry level of the district but while replying to the said query, at paragraph no. 6(c) reference has been made regarding deputation of Magistrates and police force on 24x7 basis at the drop gates/ check posts of other district boundary to stop the movement of such persons. It has also been stated that District Level Team has been

formed to monitor such movement and effective sealing of district and inter-state boundary. However, no reference of deputed team along with Magistrate and police personnel in different areas of the districts at entry point has been made and if any such team has been constituted and deputed, it was incumbent upon the State authorities to bring on record such order but not having done so, the same is nothing but an evasive reply. Therefore, the State Government is directed to bring on record specific order, passed in this regard.

7. Query No. (iv) is about the protocol to conduct test, identify and quarantine the suspects and if such protocol has been fixed, the said protocol had been directed to be disclosed to this Court but as would appear from the statement made in the affidavit vide paragraph no. 6(d), no such reply is available therein.

8. Query No. (vii) pertains to the steps to be taken by the State to cater the need of other terminally ill patients suffering from chronic disease like heart, kidney etc. in all the Medical Colleges and Hospitals and General Hospitals of the State and what steps have been taken to segregate the Covid-19 and Non-Covid-19 patients in General Hospitals and Medical Colleges and Hospitals throughout the State. While replying such query, as would appear from the statement made in paragraph no. 6(h) of the affidavit, reference has been made about a direction to ensure major health services in all Primary Health Centers and Community Health Centers and District Hospitals by all means. The districts have options to refer such terminally ill patients to other Medical Colleges & Hospitals, General Hospitals or other Referral Hospitals, in case of need for extra or emergent care. Meaning thereby, a person suffering from the disease like heart or kidney will first go to P.H.C. or C.H.C. rather than making arrangement in the Medical Colleges & Hospitals, General Hospitals or other Referral Hospitals, having experts with sufficient equipments to deal with such disease which, according to us, will

prove fatal for such patient because the patient will ultimately die for want of proper treatment and thus, it is not a proper reply to the query made vide Query No. (vii) as because the terminally ill patients suffering from chronic disease like heart, kidney etc. can only get proper medical aid in the General Hospitals and Medical Colleges & Hospitals and not in the Primary Health Centers or Community Health Centers as also in the District Hospitals and, therefore, the reply put forth in the said affidavit is an evasive reply.

9. The State should come with specific reply regarding segregating Covid-19 and Non-Covid-19 patients in the General Hospitals and Medical Colleges & Hospitals throughout the State.

10. So far as installation of CCTV cameras is concerned, statement has been made at paragraph no. 6(j) of the affidavit to the effect that sufficient number of CCTV has been installed in the hotspot areas for effective monitoring for movement of persons but we are constrained to say that there is no strict vigil since it has been reported in one of the newspapers, namely "Gandiv" that 13 persons of Hindpiri area within the district of Ranchi, which is a hotspot area, have reached to the district of Lohardaga. The same requires enquiry and if the same is true, how can it be said to be a proper monitoring even after installation of CCTVs in hotspot areas and further if the reporting is true then what action has been taken against the erring person(s) and the conduct of those 13 persons, who have reached Lohardaga.

11. So far as the steps taken to protect the Safai Karamchari and other municipal workers involved in sanitizing such hotspot/containment zone is concerned, although the same has been replied at paragraph no. 6(k) of the affidavit but in course of argument learned Advocate General has fairly submitted that he will enquire from the Municipal Corporations about such measures taken to protect the Safai Karamchari and Municipal workers on the next date of hearing and he ensures this Court that if there is no supply of infrastructures are to protect the Safai Karamchari, proper steps would be

taken.

12. Query No. (ix) which pertains to the steps taken for sensitization of the erring and non-complaint people residing within the containment/hotspot zone has also not been replied as would appear from the reply made by the State in paragraph no 6(l) of the affidavit and, as such, the same is required to be answered properly by the State authorities.

13. Query No. (x) pertains to the compliance of the direction issued by Hon'ble the Supreme Court in Writ Petition (Civil) Nos. 468-469 of 2020 vide order dated 31.03.2020 dealing with the migrant labourers working outside the States. We have gone through the order dated 31.03.2020 and found that there is reference of relief camps having been set up by the State Government/Union Territory where the migrants have been shifted and, as such, this Court requires answer as to what is the policy of the State of Jharkhand to take care of such migrant labourers working outside the State and after lifting of lockdown if they come to the State of Jharkhand, what step is to be taken to quarantine them initially for a period of 14 days and in such situation what arrangement/policy has been made for providing them food etc. at the places where they will be kept. Such policy decision is required to be brought on record on the next date of hearing.

14. Query Nos. (xi) and (xii) pertain to an order dated 29.03.2020 granting permission of movement to several persons through 08 buses/vehicles. The reference of number of vehicles has been made in the order as contained in Memo No. 996 dated 29.03.2020, issued from the office of the Deputy Commissioner-cum-District Magistrate, Ranchi. This query has been replied at paragraph no. 6(n) of the affidavit wherein nothing has been explained about the explanation with respect to the authority and recommendation made, as referred in the order dated 29.03.2020 rather it has only been said in the affidavit that the State Government has sought for an explanation from the Deputy Commissioner, Ranchi regarding the reported incidence of

movement order of several people in buses and recall of the said order. The State Government is required to take appropriate decision after receiving the show cause from the Deputy Commissioner, Ranchi. Further, it has been stated at paragraph nos. 6(o) and (p) of the affidavit that the Deputy Commissioners of Sahibganj and Koderma have submitted report that no such vehicle has entered in their respective district boundary while at paragraph no.6(p) the Deputy Commissioner, Pakur vide his letter no. 291/C dated 19.04.2020 has reported that 472 passengers in four vehicles were identified by the Joint Team of B.D.O./C.O. and Officer-in-Charge of Maheshpur Police Station, Pakur. It has further been stated that those 472 passengers have been put at quarantine centers, who have completed the quarantine period of 14 days as on 14.04.2020.

15. The question herein is that the Chief Secretary of the State of Jharkhand ought to have come out with specific explanation about the authority and recommendation which find mention in the order dated 29.03.2020, which has been acted upon by the Deputy Commissioner, Ranchi.

16. Further, the Chief Secretary of the State of Jharkhand ought to have come out with the details of passengers, who have boarded in the buses but has not brought on record.

17. At paragraph no. 6(p) reference of 472 passengers in four vehicles has been made but the order dated 29.03.2020 speaks about eight buses wherein the registration numbers of the vehicles has also been mentioned. Thus, the question arises what has happened to the other vehicles and passengers. Even accepting the oral version of the learned Advocate General that the remaining vehicles have not been deported to be true then the question would be (i) whether all the passengers have gone; (ii) whether any record has been maintained; and (iii) whether they have been put on quarantine, All these facts ought to have been brought on the affidavit but very surprisingly the same is

absent.

18. Further, the affidavit discloses about the explanation called for from the Deputy Commissioner, Ranchi but the Court is concerned with the fact that when the incident is of 29.03.2020 and since then about one month is to elapse, why the explanation has not been furnished by the Deputy Commissioner, Ranchi as yet?

19. This Court after going through the query as also the reply furnished by the State of Jharkhand is not satisfied and, therefore, this Court hereby directs the Chief Secretary of the State of Jharkhand to file a fresh affidavit replying to the queries as made in the order dated 17.04.2020 considering the observation made by this Court, as above.

20. So far as the stand of the State authorities pertaining to the period of Ramjan is concerned, this Court is of the view that, without offending the sentiment of anyone, whatever policy decision has been taken by the State Government to observe it during the period of holy Ramjan, the same is to be widely publicized through all means to sensitize people.

21. So far as pool sampling is concerned, we find from the affidavit of the Union of India that Rs. 284 Crores has been allocated to the State Disaster Relief Fund and, as such, suggestion has been made by the learned counsel appearing in one of the writ petitions that since the testing kits are being manufactured even across the country at a cheaper cost, which has been approved by the ICMR, the State Government can utilize part of the said fund for purchasing the kits for pool sampling test. It has also been informed that other States like Haryana, Rajasthan etc. are purchasing the Indian kits duly approved by ICMR and, thus, the same can also be done by the State of Jharkhand. However, we are not passing any such direction rather leaving it open to the State of Jharkhand to take decision at its own in the larger interest of the people so that the pandemic can be controlled and checked.

22. With regard to the query pertaining to the transgender across the State,

learned counsel has submitted that the transgender are in difficulty in getting food during the lockdown period, since they are having no Ration Cards. It has been stated that even under the Food Safety Act, there cannot be any discrimination with the transgender living within the State of Jharkhand.

23. Learned Advocate General has fairly submitted that the State will take all endeavors for providing meal to the transgender as also will come out with its stand pertaining to issuance of Ration Cards to them and a detail affidavit shall be filed containing the policy of the State of Jharkhand and at the same time he assures that during the lockdown period the transgender will also be provided meals.

24. The Union of India has also filed reply pertaining to the query made in the order dated 17.04.2020 wherein, while replying to Letter No. 3900035 dated 08.04.2020 of the Chief Minister of the State of Jharkhand, it has been stated about the steps taken by the Union of India for supply of hand-sanitizer triple layer masks, face masks, N-95, PPE kits, Ventilators and VTM kits by stating that up to 23.04.2020 the Government of India has supplied 2700 PPE coveralls and 59,744 N-95 masks to the State of Jharkhand. It has further been stated that sufficient quantity of medical equipment required to combat Covid-19 will be supplied to the State depending upon the patient load.

25. This Court after considering the aforesaid reply deems it fit and proper to leave it open to the State of Jharkhand to make demand of the equipments, kits etc. from the Union of India showing the details of data so that the people of Jharkhand may not suffer due to lack of infrastructure.

26. So far as the statement made with respect to the amount of 14th Finance Commission to be spent is concerned, the State is required to explain as to whether such amount under 14th Finance Commission can be spent even after 31st March, 2020 and if yes, what is the mode of the expenditure and who would be the competent sanctioning authority of the said amount and who will keep vigil upon such expenditure so that the money can be utilized

properly for its optimum utilization.

27. Apart from above, the State of Jharkhand is further directed to bring on record the actions taken report on the entire issues, including the action taken so far for proper implementation of lockdown as also the details of meals said to have been provided to the needy people. Let the State file a reply, as directed above, through the Chief Secretary of the State of Jharkhand.

28. Copy of the reply shall be served upon the respective parties on their respective electronic mails well in advance.

29. Let these matters be posted on 5th May, 2020.

(Dr. Ravi Ranjan, C.J.)

(Sujit Narayan Prasad, J.)

A.K.Verma/

N.A.F.R.