

08. 05.05.2020

1. Heard Mr. Bijaya Kumar Ragada, learned counsel, who appears in person as the petitioner, Mr. Ashok Kumar Parija, learned Advocate General, Mr. Gopal Krishna Mohanty, President, Orissa High Court Bar Association and Mr. A.K. Bose, learned Asst. Solicitor General for the Union of India.

2. Lock-down Phase 3.0 throughout the country for two weeks w.e.f. 04<sup>th</sup> May, 2020 is in currency now. Novel Corona Virus (COVID-19) has infected more than 46,000 persons so far across the country. The virus, Novel as it is, in absence of vaccine and medication to arrest its spread, declares with pride “Hide from me to be safe” and “Keep distance from my carrier to be alive”. Hon’ble Prime Minister of India and Hon’ble Chief Minister of our State have taken well conceived, well thought of, justly considered, tough and hard steps to contain the crisis arising out of the virus.

3. Staying at home to be safe and maintaining social distance are the only ways to check spread of the virus. India countries cross sections of people of various religion, faith, cast, creed and colour. Law abidingness, however, has never been a natural habit of a part of the population. Irresponsibility is writ large when it comes to conforming to certain sets of discipline and order. In such a situation, locking down the entire country to keep the people safe was probably the only remedy available, though outcome of a very tough and difficult decision. We, therefore, are one in our view that Executive Government is best fitted and best suited to contain the crisis arising out of the virus in its own novel and extraordinary way, provided everything is done within the

constitutional framework and there is proper co-ordination among the implementing agencies..

4. Locking down the entire country was the outcome of a tough decision in fact. Unlocking the country is going to be more tough and a difficult responsibility. In the process, however, the courts' work throughout the country has suffered and consequently the litigants have been suffering.

5. On the face of the crisis, we are sincerely concerned with the plight of the citizens and the litigants, majority of whom in our State are poor. They are not in a position to come to the Court in such a situation to seek legal remedies. We also do not want rush of litigants in the Courts in contravention of the "Social Distancing" discipline.

6. For the consequential lockdown due to COVID-19 in three phases including the present one, working of this Court, other subordinate courts as well as judicial and quasi-judicial authorities working under the superintendence of this Court, has been affected to a great extent. The situation has resulted in hardship for the litigants and ordinary citizens to approach the court of law to take recourse to legal remedies. With a view to ensure that the litigants and citizens do not suffer on account of their inability to approach the court of law, we propose to invoke our plenary power under Article 226 and power of superintendence under Article 227 of the Constitution of India, our inherent power over the criminal matters under Section 482, Cr.P.C., our power of superintendence over criminal courts under Section 483, Cr.P.C. and our inherent power over the civil matters under Section 151 of the C.P.C.

7. We do not see a fathomable end to the present crisis, but we hope that, by the end of the ensuing Summer Vacation of this Court as well as the subordinate judiciary of the State, the situation shall be normal or at least near to normal. Keeping such hope in mind, in exercise of our power under Articles 226 and 227 of the Constitution of India read with Sections 482 & 483, Cr.P.C. and Section 151 of the Code of Civil Procedure, we issue the following directions to at least contain the plight of the litigants and non-litigants.

- (i) That all interim orders / directions issued or protection granted including any order requiring any compliance by the parties to such proceedings, passed by this Court or any court subordinate to it or any Family Court or Labour Court or any Tribunal or any other Judicial or Quasi Judicial forum in the State of Odisha, over which this Court has power of superintendence, which were subsisting as on the date of commencement of national lockdown, shall stand extended till 18th June 2020.
- (ii) That it is further directed that the interim orders or directions of any court in the State, which are not of a limited duration and were meant to operate till further orders, shall continue to remain in force until modified / altered / vacated by specific order of the court concerned in a particular case.
- (iii) Filing of written-statement or return in any Suit or proceeding pending before any Civil Court or any other forum, unless specifically directed, shall stand extended

till 18<sup>th</sup> of June, 2020. It is however clarified that, if the parties are in a position to file such written-statement or return, they may file it before such date, i.e. 18.06.2020.

- (iv) That it is further directed that the orders of eviction, dispossession, demolition, etc. passed by this Court or any court subordinate to it or any Tribunal or judicial or quasi judicial forum, shall remain in abeyance till 18<sup>th</sup> of June 2020.
- (v) Interim protection given in all the anticipatory bail applications by the High Court or Sessions Court for a limited period, which are likely to expire by today or has expired in the meantime, shall stand extended till 18<sup>th</sup> of June, 2020. However, any party aggrieved by the conduct of the accused on such interim protection, may move the Court in seisin over the matter for cancellation of the interim protection, if prejudice is caused to him / her.
- (vi) All the interim bail granted under Section 439, Cr.P.C. by the High Court or Sessions Courts and limited by time-frame specifying an expiry date, stands extended till 18<sup>th</sup> of June, 2020, subject to the condition that, on every 10<sup>th</sup> day from today the defence counsel shall file a petition supported by affidavit before the competent court in seisin over the matter, to the effect that the person on interim bail is not abusing his/her liberty and he/she is living within the jurisdiction of the Court. If the

10<sup>th</sup> day falls on a holiday, such affidavit may be filed on the re-opening day succeeding next.

- (vii) Parole granted to a person through orders passed by a Court exercising the criminal jurisdiction and limited by time-frame specifying an expiry date, stands extended till 18<sup>th</sup> of June, 2020, subject to the condition specified in Point No.(ix).
- (viii) Unless there is necessity of arrest for maintenance of law and of course order, in a cognizable offence prescribing sentence up to seven years imprisonment, the police should not be in a hurry to arrest the accused without complying with the provision of Section 41(A), Cr.P.C. This shall be effective till 18<sup>th</sup> June, 2020.  
(This is however not an interdict or a direction to curb power of the police to arrest, but on the face of the crisis, an advisory to be followed by the police so far as it is practicable and possible).
- (ix) It is further directed that the State Government or any of its Department or any Municipal Corporation / Council / Board or any Gram Panchayat or any other local body or any other agency and instrumentality of the State shall not take any action for eviction, and demolition in respect of the property, over which any citizen or person or party or any Body Corporate has physical or symbolic possession as on today till 18<sup>th</sup> June, 2020.
- (x) That, it is further directed that, any Bank or Financial

Institution shall not take action for auction in respect of any property of any citizen or person or party or any Body corporate till 18<sup>th</sup> June, 2020.

(xi) That it is further directed that if the Government of Odisha and/or any of its Department and/or functionaries, Central Government and/or its departments or functionaries or any Public Sector Undertakings or any Public or Private Companies or any Firm or any individual or person is/are, by the order of this Court or any Court subordinate to it or the Tribunals, required to do a particular thing or carry out certain direction in a particular manner in a time frame, which expired or is going to expire at any time, during the period of lockdown or the extended lockdown, time for compliance of such order shall stand extended up to 18<sup>th</sup> June 2020, unless specifically directed otherwise.

(xii) To dispel ambiguity, it is clarified that :-

(a) Those interim orders / directions, which are not for a limited duration and are to operate until further orders, shall remain unaffected.

(b) That, in case, extension of interim order(s)/ direction(s) as directed by us cause undue hardship and prejudice of any extreme nature to any of the parties to such proceeding(s), such parties would be at liberty to seek appropriate relief before the competent Court(s), Tribunal,

Judicial or Quasi-Judicial Forum, and these directions shall not be a bar for such Courts / Forums to consider such petition(s) filed by the aggrieved party, on its merit, after due notice to the other side.

- (c) Our directions vide Point No.(ix) shall have no effect if the State is required to resort to eviction or demolition for any urgent public purpose in the larger interest of the public.
- (d) All Courts, Tribunals, judicial and quasi-judicial authorities are directed to abide by these directions, and the parties seeking relief(s) covered by these directions can file hard copy or soft copy of this order before the competent court / forum, and such copy of the order shall be given due weightage.

**8.** This order be published in the official website of the Court and circulated to all concerned Courts, Tribunals, judicial and quasi-judicial authorities of the State, learned Advocate General, learned Assistant Solicitor General for Odisha and the Chairman of Odisha State Bar Council.

We request the Chairman of the State Bar Council to circulate this order to all the Bar Associations of the State.

**9.** The Registry is directed to give wide publicity to this order so that the litigants can know about the order and shall not rush to the

Court for different relief(s) covered by these directions.

List this matter before the appropriate Bench on 18<sup>th</sup> of June, 2020.

As Lock-down period is continuing for COVID-19, learned counsel for the petitioner and any person to be benefited by this order, may utilize the soft copy of this order available in the High Court's official website or print out thereof at par with certified copies in the manner prescribed, vide Court's Notice No.4587 dated 25.03.2020.

A free copy of this order be granted to the Government Counsels for necessary steps.

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**C.R. Dash, J.**

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**S.K. Panigrahi, J.**