

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

LD-VC-PIL-35 OF 2020

(Sandip Madhu Nair..vs.. State, thr Home Deptt & Ors.)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri Anil Kamale, counsel for petitioner.
Smt. K.S. Joshi, Addl. Govt. Pleader for respondents.

CORAM: ROHIT B. DEO, J.

DATE:08.05.2020.

This Public Interest Litigation brings to the fore an extremely disturbing and distressing facet of the enforcement of the lockdown directives.

2. The petitioner contends that in an anxiety to strictly enforce the lockdown directives issued to combat the Covid Virus, certain personnel of the police force are guilty of gross violation of human rights. The petitioner contends that while the police force, by and large, has risen to the occasion and is discharging its duties in an exemplary manner, the instances highlighted in the petition is a blot on the otherwise laudable performance of the police machinery.

3. The petitioner contends that persons who allegedly violated the lockdown directives, including senior citizens on morning walks, are subjected to inhuman indignities. The alleged violators are photographed holding

placards declaring that the violator is an enemy of the nation, the society, the family and humanity since he is a law breaker.

4. It is further submitted that photographs of the lockdown violators, which include elderly citizens and respected professionals, have been published in prominent newspapers and have gone viral on social media.

5. The petitioner would submit that while police are entitled, and indeed bound to, take all possible measures within the four corners of law, as are necessary to enforce the lockdown, making a humiliating spectacle of the violators is a serious infringement of human rights and the constitutional right guaranteed under Article 21.

6. In view of the extremely disturbing averments in the petition, before issuing notice, I consider it appropriate to request the learned Addl. Government Pleader Smt. K.S. Joshi to ascertain whether the instances which are highlighted have as a fact occurred. The learned Addl. Govt. Pleader states that she has received instructions from the Commissioner of Police Shri Upadhye and the Joint Commissioner of Police Shri Ravindra Kadam and she is in a position to state on instructions that while certain instances did occur in the first phase of lockdown, the humiliating photographs have not been published by the police. However, the learned Addl. Govt. Pleader Smt. K.S. Joshi is

not in a position to make a statement, at this stage, whether the photographs are taken by police personnel and assures the Court that such a statement shall be made on the next date of hearing.

7. I have come across several news reports highlighting the unusual and humiliating punishments which are meted out by police personnel under the garb of enforcing the lockdown directives. This Court has no reason to suspect the intent. However, the end does not necessarily justify the means. The police personnel who have indulged in a blatant violation of human dignity were expected to be alive to our society being a civilized society governed by the rule of law. While extraordinary situations may call for extraordinary measures, the measures must have the sanction of law. Human dignity and rights cannot be sacrificed at the alter of extraordinary situations nor can the constitutional right to a dignified life be hostage to supposed intentions. This Court would request the Police Commissioner to sensitise the personnel under his command to ensure that such sordid incidents do not occur.

8. This Court directs that no extra legal measures or punishments shall be taken recourse to while enforcing the lockdown. The police machinery has sufficient power under the provisions of law which would enable strict enforcement of the lockdown directives. While this Court trusts that the top echelons of the police machinery shall ensure that there

shall be no further violation of human rights while enforcing the lockdown, should a single such incident be noticed, this Court expects the Police Commissioner to hold the senior officer within whose jurisdiction the incident has occurred, accountable.

9. Issue notice to the respondents, returnable on 21.5.2020.

10. Smt. K.S. Joshi, the learned Addl. Govt. Pleader waives service for respondents.

Judge