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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 3163/2020

DELHI HIGH COURT BAR ASSOCIATION
& ORS.

..... Petitioners

Through: Mr. Mohit Mathur & Mr. Abhijat,
petitioners.

versus

UNION OF INDIA & ORS.

..... Respondents

Through: Mr. Ripu Daman Bhardwaj, Advocate
for respondent.

Mr. Vinod Diwakar, Advocate for
respondent/ State of UP.

Mr. Sameer Vashisht, Advocate for
respondent/ GNCTD.

Mr. Anil Grover and Mr. Rahul
Khurana, Advocates for respondent/
State of Haryana.

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HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE RAJNISH BHATNAGAR

ORDER

18.05.2020

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CM APPL. 10992/2020

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

CM APPL. 10993/2020

3. Exemption allowed, subject to all just exceptions.
4. The Court Fees be filed within two weeks.
5. The application stands disposed of.

W.P.(C) 3163/2020 and CM APPL. 10991/2020

6. Issue notice. Learned counsels accept notice on behalf of the respondents.

7. The present writ petition has been preferred by the Delhi High Court Bar Association, its President Mr. Mohit Mathur and its Honorary Secretary Mr. Abhijat, in public interest, to seek a writ of mandamus to the respondents which, *inter alia*, include the State of Haryana and the State of Uttar Pradesh (UP), to allow unhindered movement of advocates – who are residing in the said two States but have their offices in Delhi and are practising in Delhi Courts, subject to safeguards laid down by the respondent No.1/ Union of India (UOI) in its guidelines dated 01.05.2020. At this stage itself, we may observe that the UOI has updated its guidelines only yesterday, i.e. 17.05.2020. Other consequential reliefs have also been sought in pursuance of the first relief in the writ petition.

8. Mr. Anil Grover – learned counsel representing the State of Haryana, submits that in respect of advocates, a separate category has been included for issuance of e-passes on weekly basis, and the e-passes are routinely being issued without any delay, i.e. within a matter of few minutes – up to thirty minutes. He submits that the purpose of regulating entry to and fro, by issuing entry passes is to keep a track so that any person – who is later found to be Covid positive, and who may have travelled inter state, can be traced to prevent further spread of the viral infection. He further submits that the persons who are residing in Containment Zones are excluded from issuance of such like passes. Mr. Grover has also submitted that there is no insistence on the e-pass being shown in printed form at, and it is sufficient

for the person concerned to show the e-pass on his mobile phone itself, apart from the Identity Card to establish the fact that the e-pass has been issued to the person actually travelling.

9. Mr. Sameer Vashisht – learned counsel who appears for the GNCTD, has stated that he himself resides in Gurugram, and his experience is that when he applied for the e-passes today morning itself – for himself and his Clerk, the same were issued within a matter of few minutes.

10. Mr. Mohit Mathur and Mr. Abhijat, firstly, submit that separate category for advocates was not operational till yesterday. It appears that the same has been made operational now. Since the same has been made operational while we are dealing with this petition, the said issue does not survive.

11. Another submission of Mr. Mathur is that the advocates should be allowed entry & exit into, and out of Delhi, to the two States on the basis of their Identity Cards alone. We are not inclined to accept this submission for the reason that, in case, at the Border/ Barrier, if the checking authorities find any reason not to accept the Identity Card, the same may lead to a fracas and congestion – which is best avoided in the present situation. The same may lead to slowing down the traffic and also congregation of persons at the Barrier – which cannot be permitted. Since the system of issuance of weekly e-passes is in place and has been made operational, we do not consider it proper to interfere with the same at this stage.

12. So far as the State of Haryana is concerned, we are satisfied with the system in place, which shall continue to operate unless there is good reason to alter the same.

13. So far as the State of UP is concerned, Mr. Diwakar submits that some arrangement has been entered between Supreme Court Bar Association and the local administration of Ghaziabad and Noida Districts. He seeks some time to take further instructions and report back.

14. We find that movement of advocates between the said two States and the NCT of Delhi, in such like cases – where the advocates are residing in one or the other State, and working in the NCT of Delhi, should be permitted within reasonable limits, since legal services are essential services. The advocates represent their clients in cases to protect and advance their rights – including fundamental rights, which may be at stake, and to deny such litigants the right to avail of legal services through their engaged advocates, would be denial of such rights. The rights of such advocates to earn their livelihood – which is a facet of the Right to Life and Liberty, and their freedom to carry out the profession, are also at stake. The same cannot be completely denied and can only be regulated with reasonable restrictions. We, therefore, expect the State of UP to adopt the same method for issuance of e-passes on weekly basis, as has been evolved by the State of Haryana. The State of UP shall consider these aspects before the next date.

15. To enable Mr. Diwakar to report instructions, list on 20.05.2020.

VIPIN SANGHI, J

RAJNISH BHATNAGAR, J

MAY 18, 2020

B.S. Rohella