

In The High Court at Calcutta

(APPELLATE SIDE)
CHAPTER - XIX
APPENDIX - II

FORM - A PRESENTATION FORM

1. CASE TYPE (See table - 1) *PIL-Matter (W.P.No. (w) of 2020)*
2. No. of *2020* (Filing Number and date to be given by the office)
- 2A. DISTRICT CODE.....(Table vi).....for W.P.
3. Petitioner(s) / Appellant(s)/ Applicant(s) *PRİYANKA TIBREWAL & Anr. /Oth's.*
4. Respondent(s) / Opposite Party (Parties) *Union of India & Anr. /Oth's.*
5. Petitioner(s) / Appellant(s) Advocate *Priyanka Tibrewal (In Person)*
6. Respondent (s) / Opposite Party (Parties) Advocate
7. Subject Category Code (See Table-III) *12600* Group: *A* Sub. Group: *26*
8. Case Stage Code (See Table - II)
9. Acts (s): *NO ACT*
10. Rule (s):
11. Working Section (See Table V) *10 (Mandamus)*
12. Date of filling *4.6.2020*
13. Connected Case type : No. of 201
14. Lower Court information (if any) :
Lower Court details : Dist. / High / Tribunal District :
Coram : District Code (See Table VI)
Lower Court Case No. of 201
Judgement/Order dated : Date of Transfer :
Connected Lower Court Cases :
15. To be listed as Main / Application on *5/6/2020*
In Court No.
16. Special information, if any :
Date : *4/6/2020* *201*
- Priyanka Tibrewal*
Signature of the Advocate for the petitioner(s) (In-Person)

RECEIPT:

Received Case Type No. of 201

Submitted on :

Signature of the Section Officer/
Superintendent, Central Filing Section

N.B. - Any entry not applicable simply penned through.

District : Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W. P. No. (W) of 2020

In the matter of:

Priyanka Tibrewal

..... Petitioner

Versus

Union of India and Ors

..... Respondents

GROUP: , HEAD: NIL

In person:

Priyanka Tibrewal,

Wife of Aditya Tibrewal,

residing at 54/10, DC Dey Road,

Kolkata – 700015

M: 9831305683

District : Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

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W. P. No. (W) of 2020

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District : Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W. P. No. (W) of 2020

In the matter of:

Priyanka Tibrewal

..... Petitioner

Versus

Union of India and Ors

..... Respondents

LIST OF DATES

Dates	Events
24.03.2020:	Order and Guidelines issued by the Respondent no. 4 directing closure of most activities in light of the outbreak of COVID 19.
28.03.2020:	Consolidated Guidelines issued by Respondent no. 4 that , <i>inter alia</i> , directed closure of all places of worship.
27.05.2020:	Respondent 1 issued a notification dated May 27, 2020 for post arrival mandatory institutional quarantining of migrant workers returning from Maharashtra, Delhi, Gujarat, Tamil Nadu and Madhya Pradesh in a safe and hygienic place.
30.05.2020:	Respondent no. 4 issued a notification no. 40-3/2020- DM - I(A) dated May 30, 2020 issuing guidelines for phased opening of the lockdown. These guidelines order for a further extension of the lockdown till June 30, 2020 in all those areas which are containment areas. In all those areas, which

are not containment areas, as per Phase I, places of worship are to be opened from June 8, 2020.

30.05.2020 : Respondent no. 1 vide Memo no. 218 -CS/ 2020 issued guidelines directing, *inter alia*, the opening of places of worship and congregation of not more than 10 people in places which are not containment areas from June 1, 2020.

01.06.2020: The abovementioned Memo directed the opening of places of worship and congregation of not more than 10 people in places which are not containment areas from this date.

08.06.2020 The Order and guidelines by the Respondent no. 4 for phased opening of the lockdown directing places of worship to open from this date as part of the Phase -I of reopening.

District : Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION

APPELLATE SIDE

W. P. No. (W) of 2020

In the matter of:

Priyanka Tibrewal

..... Petitioner

Versus

Union of India and Ors

..... Respondents

POINTS OF LAW

1. Whether the action of the Respondent nos. 1 and 2 of issuing directions for opening places of worship in accordance with the guidelines issued by the Respondent nos. 3 and 4 is in contravention of the exception of public order, health and morality as provided under Articles 25 and 26 of the Constitution of India given the current outbreak of COVID 19?
2. Whether the Respondent nos. 1 to 7 should formulate guidelines for the protection of school going children upto the age of 12 years to ensure their safety through adequate social distancing amidst the current outbreak of COVID 19?
3. Whether the inaction on part of the respondent no. 2 to give effect to its notification dated May 27, 2020 for post arrival mandatory quarantining of migrant workers returning from Maharashtra, Delhi, Gujarat, Tamil Nadu and Madhya Pradesh in a safe and hygienic place render such

noble acts redundant and amount to complete non action on part of the State Government to ensure the welfare of its people? Whether such action of the respondents tantamount to their failure to protect the fundamental right to life as envisaged under Article 21 of the Constitution of India?

District: Kolkata

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

Priyanka Tibrewal

W.P. No. (W) of 2020

IN THE MATTER OF:

An application under Article 226 of the
Constitution of India;

AND

IN THE MATTER OF:

Priyanka Tibrewal, Wife of Aditya
Tibrewal, residing at 54/10, DC Dey
Road, Kolkata – 700015

...Petitioner (IN PERSON)

-Versus-

1. The State of West Bengal, service through the Chief Secretary, Government of West Bengal, having his office at Nabanna, 13th Floor, 325 Sarat Chatterjee Road, Mandirtalla, Shibpur, Howrah—711 102.
2. The Home Secretary, Government Of West Bengal, having his office at having his office at Nabanna, 13th Floor, 325 Sarat Chatterjee Road, Mandirtalla, Shibpur, Howrah—711 102.
3. The Union of India, service through the Secretary, Government of India, Ministry of Law, Justice, Company and Legal Affairs, 4th Floor, “A”

Wing, Shastri Bhavan, New Delhi—110 001, service on the Joint Secretary/Learned Central Government Advocate, Branch Secretariat, Union Ministry of Law, Justice, Company and Legal Affairs, 11, Strand Road, Kolkata—700 001.

4. The Secretary, Government of India, Ministry of Home Affairs, working for gain at Ministry of Home Affairs, North Block, Central Secretariat, New Delhi - 110 001, service through the Joint Secretary/Learned Central Government Advocate, Branch Secretariat, Union Ministry of Law, Justice, Company and Legal Affairs, 11, Strand Road, Kolkata—700 001.

5. Central Board of Secondary Education, service through Manoj Kumar Ahuja, IAS, Chairperson, Central Board of Secondary Education Shiksha Kendra, 2, Community Centre, Preet Vihar, Delhi - 110092

6. Department of School Education, service through Secretary, Department of School Education, Government of West Bengal Bikash Bhavan, 5th & 6th floor, DF Block, Sector-1, Salt Lake City, Kolkata, West Bengal 700091

7. Council for the Indian School Certificate Examinations, service through G. Immanuel, Chairman, Council for the Indian School Certificate Examinations Pragati House, 3rd Floor, 47-48, Nehru Place, New Delhi - 110019

.....Respondents.

To

The Hon'ble Thottathil R. Radhakrishnan, Chief Justice and His Companion Justices of the said Hon'ble Court.

Humble application on behalf of the petitioner above named,

Most Respectfully Sheweth :

1. Your petitioner is a law abiding and peace-loving citizen of India. She is a practicing advocate of this Hon'ble Court with 12 years' standing at the Bar and is also a welfare seeker working for the weaker and oppressed sections of the society.
2. That the present application has been instituted by the petitioner who seeks to bring on record certain facts in the spirit of public benefit and welfare. The respondents 1 to 6 are Union of India and the State of West Bengal represented through their concerned departments and the respondent no. 7 is the Council for the Indian School Certificate Examinations (hereinafter referred to as the "CISCE").
3. The first respondent is the State of West Bengal which under Entries 1 and 2 of List II of the Seventh Schedule to the Constitution of India has plenary powers of maintenance of public order in the State of West Bengal and over police. The respondent No. 1 is to discharge its said functions including the charge of maintenance of law and public order in and around the state of West Bengal. The respondent No. 4 is an officer/authority and/or instrumentality of the respondent No. 4 through whom the Central Government discharges its statutory and public functions and duties including sending central forces to aid civil administration in states such as West Bengal. The respondents, with the exception of Respondent no. 7 are therefore all "State" within the meaning of Article 12 of the Constitution of India and "person or authority" within the meaning of

Article 226 of the Constitution of India. Your petitioner craves leave to make appropriate submissions of law at the time of hearing.

4. The petitioner states that on account of the recent outbreak of Novel Corona Virus and/or Covid 19, the nation had been put under an unprecedented lockdown since the evening of March 23, 2020 in order to prevent further spread of the same. Under such circumstances, except movement of essential commodities, transport of all kinds of goods and movement of all individuals had been suspended till further orders from the Government of India.
5. The petitioner states that the respondent no. 1 in its own capacity invoked and implemented lockdown through the State of West Bengal and for such purpose has also resorted to several measures in order to alleviate the difficulties of the people of West Bengal. The respondent no. 2 was in charge of the duty to ensure that such measures are implemented peacefully by maintaining law and order so as to curb the infection from spreading and to avoid a public hazard.
6. The abovementioned measures were taken in accordance with The Disaster Management Act, 2005. The Parliament had enacted the Disaster Management Act, 2005 (hereinafter referred to as 'the Act') for the effective management of disasters and for matters connected therewith or incidental thereto. Section 2 of the Act is a definition clause. Section 2 (a) defines 'affected area'. Section 2 (d) defines 'disaster' as under:-

"(d) "disaster" means a catastrophe, mishap, calamity or grave occurrence in any area, arising from natural or man made causes, or by accident or negligence which results in substantial loss of life or human suffering or damage to, and destruction of, property, or damage to, or degradation of, environment, and

is of such a nature or magnitude as to be beyond the coping capacity of the community of the affected area."

Section 2 (e) defines 'disaster management' as under :-

"(e) "disaster management" means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for—

(i) prevention of danger or threat of any disaster;

(ii) mitigation or reduction of risk of any disaster or its severity or consequences;

(iii) capacity-building;

(iv) preparedness to deal with any disaster;

(v) prompt response to any threatening disaster situation or disaster;

(vi) assessing the severity or magnitude of effects of any disaster;

(vii) evacuation, rescue and relief;

(viii) rehabilitation and reconstruction."

7. Section 3 provides for establishment of an authority to be known as 'National Disaster Management Authority'. Section 6 deals with the powers and functions of National Authority. Section 8 provides for constitution of National Executive Committee. The powers and functions of National Executive Committee are provided under Section 10 of the Act. Chapter III deals with the State Disaster Management Authorities. Chapter IV deals with the District Disaster Management Authority. Chapter V provides for measures by the Government for Disaster Management. Section 35 of the Act reads as under :-

"35. Central Government to take measures —

(1) Subject to the provisions of this Act, the Central Government shall take all such measures as it deems necessary or

expedient for the purpose of disaster management.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), the measures which the Central Government may take under that sub-section include measures with respect to all or any of the following matters, namely :—

coordination of actions of the Ministries or Departments of the Government of India, State Governments, National Authority, State Authorities, governmental and non-governmental organisations in relation to disaster management;

(a) ensure the integration of measures for prevention of disasters and mitigation by Ministries or Departments of the Government of India into their development plans and projects;

(b) ensure appropriate allocation of funds for prevention of disaster, mitigation, capacity-building and preparedness by the Ministries or Departments of the Government of India;

(c) ensure that the Ministries or Departments of the Government of India take necessary measures for preparedness to promptly and effectively respond to any threatening disaster situation or disaster;

(d) cooperation and assistance to State Governments, as requested by them or otherwise deemed appropriate by it;

(e) deployment of naval, military and air forces, other armed forces of the Union or any other civilian

personnel as may be required for the purposes of this Act;

(f) coordination with the United Nations agencies, international organisations and governments of foreign countries for the purposes of this Act;

(g) establish institutions for research, training, and developmental programmes in the field of disaster management;

(h) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act.

(3) The Central Government may extend such support to other countries affected by major disaster as it may deem appropriate."

8. Section 38 of the Act provides the measures required to be taken by the State Government. It reads as under :-

38. State Government to take measures — (1)

Subject to the provisions of this Act, each State Government shall take all measures specified in the guidelines laid down by the National Authority and such further measures as it deems necessary or expedient, for the purpose of disaster management.

(2) The measures which the State Government may take under sub-section (1) include measures with respect to all or any of the following matters, namely: —

(a) coordination of actions of different departments of the Government of the State, the State Authority, District Authorities, local authority and other non-governmental organisations;

(b) cooperation and assistance in the

disaster management to the National Authority and National Executive Committee, the State Authority and the State Executive Committee, and the District Authorities;

(c) cooperation with, and assistance to, the Ministries or Departments of the Government of India in disaster management, as requested by them or otherwise deemed appropriate by it;

(d) allocation of funds for measures for prevention of disaster, mitigation, capacity- building and preparedness by the departments of the Government of the State in accordance with the provisions of the State Plan and the District Plans;

(e) ensure that the integration of measures for prevention of disaster or mitigation by the departments of the Government of the State in their development plans and projects;

(f) integrate in the State development plan, measures to reduce or mitigate the vulnerability of different parts of the State to different disasters;

(g) ensure the preparation of disaster management plans by different departments of the State in accordance with the guidelines laid down by the National Authority and the State Authority;

(h) establishment of adequate warning systems up to the level of vulnerable communities;

(i) ensure that different departments of the Government of the State and the District Authorities take appropriate preparedness measures;

(j) ensure that in a threatening disaster situation or disaster, the resources of different departments of the Government of the State are made available to the National Executive Committee or the State Executive Committee or the District Authorities, as the case may be, for the purposes of effective response, rescue and relief in any threatening disaster situation or disaster;

(k) provide rehabilitation and reconstruction assistance to the victims of any disaster; and such other matters as it deems necessary or expedient for the purpose of securing effective implementation of provisions of this Act."

9. Section 39 of the Act lays down the responsibilities of departments of the State Government including the respondent no. 2.
10. In light of the above, by guidelines dated 24.03.2020, issued by the Respondent no. 4, *inter alia*, all places of worship and educational institutions were, closed for public. No religious congregations were be permitted, without any exception. The restrictions qua religious places and educational institutions, as mentioned in the consolidated guidelines dated March 28, 2020 (which were consolidated after inclusion of the 1st and 2nd addendum to the guidelines) issued in pursuance of the statutory order dated 24.03.2020 read as under :-

“8. All educational, training, research, coaching institutions etc. shall remain closed.
9. All places of worship shall be closed for public. No religious congregations will be permitted, without any exception.”

The words used in the restrictions were pre-emptory and mandatory, without any exception. These restrictions applied to all the religions.

The consolidated guidelines are annexed hereto and marked as

Annexure 'P-1'.

11. At the outset, the petitioner states that since children and old people of the state are more susceptible to COVID 19, the respondent nos.1, 2, 5, 6 and 7 should take appropriate steps to pre-emptively frame guidelines to ensure the safety of all children upto the age of 12 years of age and all schools in the state should remain closed till it is certified by health authorities as safe to open physical functioning. It must be the earnest endeavour of the respondent no. 1 to ensure utmost safety of its people, and children upto the age of 12 years on priority basis.
12. On May 27, 2020 the Respondent no. 1 through its Department of Health and Family Welfare issued a Memo no. H&FW/173/20 directing, *inter alia*, mandatory institutional quarantine of migrant workers returning to state of West Bengal from the states of Maharashtra, Tamil Nadu, Gujarat, Madhya Pradesh and Delhi. The petitioner further states that the conditions of the migrant workers of the state, returning from various parts of the country is abysmal to say the least. It was reported by CN News on June 1, 2020 that five migrant workers who arrived in Kolkata from Maharashtra were quarantined in a Sulabh Toilet at 11, Gorgacha, Taratalla, Kolkata-700053 in a deplorable state of hygiene with inhuman conditions. One Mr. Mahesh Baidya being a resident of 11, Gorgacha, Taratalla, Kolkata-700053 noticed the same and being an educated and responsible citizen, considered it his duty to bring the same to the notice of the Taratalla police station. Upon reaching the police station he was ill-treated and the officer in charge refused to entertain his request. The same is evidenced by the letter written by Mr. Mahesh Baidya to various state authorities including the Chief Minister of the Respondent no. 1. The said notification (with revised SoP) for mandatory institutional quarantine and the letter by Mahesh Baidya is annexed hereto and marked with the letter 'P-2'.
13. On May 30, 2020 the Respondent no. 1 vide Memo no. 218 -CS/ 2020 issued guidelines directing, *inter alia*, the opening of places of worship

and congregation of not more than 10 people in places which are not containment areas from June 1, 2020. This memo was issued in pursuance of the Respondent No. 4's notification no. 40-3/2020- DM - I(A) dated May 30, 2020 issuing guidelines for phased opening of the lockdown. These guidelines order a further extension of the lockdown till June 30, 2020 in all those areas which are containment areas. In all those areas, which are not containment areas, as per Phase I, places of worship are to be opened from June 8, 2020. Copies of the memo issued by respondent no. 1&2 and the notification issued by the respondent no. 4 is annexed hereto and collectively marked with the letter 'P-3'.

14. Several news reports show that the chief minister in her statement to the press dated May 30, 2020 stated that if large number of passengers could be packed in train coaches and allowed to travel, then there was no harm in throwing open the doors of religious places for devotees. This statement on behalf of the respondent no. 1 is callous, irresponsible and highly misconceived. Essential travel of passengers can in no manner be equated with opening up and crowding of places of worship, which are non-essential activities.
15. Such act of the Respondent nos. 1 to 4, is unnecessary, arbitrary and against the maintenance of public order, health and morality and violates the exception envisaged under Article 25 of the Constitution of India.
16. Such an act of the Respondents will lead to increased assembly of people outside such places of worship as only ten (10) people are allowed to go in at one point in time. The notification further states that gathering and assembly of people in such premises shall not be permitted. This means that all others who want to enter such places must wait for their turn outside. There is no norm or guideline issued for how many people can congregate outside such places of worship and how much distance they ought to maintain between themselves.
17. As of June 3, 2020 the number of COVID positive cases in West Bengal are 6168. The opening up of non-essential activities not impacting the

economy is inviting trouble. It is difficult to ascertain how many asymptomatic COVID positive cases may be roaming around the city due to opening up of such non-essential activities such as places of worship. Latest newspaper reports indicate that on June 3, 2020, the state of West Bengal recorded the highest number of COVID 19 positive cases in a day i.e., 396. One such newspaper report is annexed hereto and marked with the letter 'P-4'.

18. The petitioner states that exposure of normal people to such COVID positive asymptomatic person will lead to nothing short of an explosion of the number of COVID positive cases. This will put a lot of lives at risk, especially of those who are more susceptible to contracting the virus and those with underlying health issues such as diabetes, lung, heart conditions etc. As per the International News Agency, Quartz India, India has the highest number of diabetics in the world and States with the highest number of diabetics are Kerala followed by West Bengal at 10.9% and 9.4% of total diabetics of the country. The statistics evidencing the same has been annexed hereto and marked as Annexure 'P-5'.
19. The abovementioned order of the Respondents especially with respect to opening up of places of worship is in violation of the exception of 'public order, morality and health' as envisaged in Articles 25 and 26 of the Constitution of India and its immediate revocation is justified for the following reasons:
 - (a) Restrictions by the State upon free exercise of religion are permitted both under Articles 25 and 26 on grounds of public order, morality and health.
 - (b) Clause (2) (a) of Art. 25 reserves the right of the State to regulate or restrict any economic, financial, political and other secular activities which may be associated with religious practice and there is a further right given to the State by sub-clause (b) under which the State can legislate for social welfare and reform even though by so doing it might interfere with religious practices. As per clause (2) (a) all secular

activities, which may be associated with religion but do not really constitute an essential part of it, are amenable to State regulation.

(c) Article 25(2)(a) contemplates regulation by the State of religious practices as such, the freedom of which is guaranteed by the Constitution except when they run counter to public order, health and morality. It allows regulation of activities which are economic, commercial or political in their character though they are associated with religious practices.

20. While offer of prayer or worship is a religious practice, its offering at every location where such prayers can be offered would not be an essential or integral part of such religious practice unless the place has a particular significance for that religion so as to form an essential or integral part thereof.
21. Places of worship of any religion having particular significance for that religion, to make it an essential or integral part of the religion, stand on a different footing and have to be treated differently and more reverentially but fall within the aforesaid exception given the current pandemic and increasing susceptibility of people due to human exposure.
22. Article 25 secures to every person, subject to public order, health and morality and other provisions of Part- III, including Article 17 freedom to entertain and exhibit by outward Acts as well as propagate and disseminate such religious belief according to his judgment and conscience for the edification of others. The right of the state to impose such restrictions as are desired or found necessary on grounds of public order, health and morality is inbuilt in Articles 25 and 26 itself. Article 25(2)(b) ensures the right of the state to make a law providing for social welfare and reform besides throwing open of religious institutions of a public character to all classes and sections of the population and any such rights of the state or of the communities or classes of society were also considered to need due regulation in the process of harmonizing the

various rights. The vision of the founding fathers of Constitution to liberate the society from blind and ritualistic adherence to mere traditional superstitious beliefs sans reason or rational basis has found expression in the form of Article 17.

23. The legal position that the protection under Articles 25 and 26 extends a guarantee for rituals and observances, ceremonies and modes of worship which are integral parts of religion and as to what really constitutes an essential part of religion is intact. A practice may be a religious practice but not an essential and integral part of practice of that religion. The latter is not protected by Article 25.
24. A bare reading of Article 25 deprives the submission of all its force, vigour and charm. The freedom is subject to public order, morality and health. So the Article itself permits a measure under a legislation such as the Disaster Management Act, 2005 in the interest of social welfare and reform which are obviously part and parcel of public order stemming from the collective health of the nation's people.
25. The Respondent no. 4 has relaxed the restrictions imposed qua religious places. The imposition of restrictions on religious places was in larger public interest. There was a reasonable nexus with the object sought to be achieved. The object sought to be achieved is that the persons should not gather in religious places to practice social distancing and control the spread of Corona virus. The said object has not been achieved yet. The guidelines had been issued strictly in conformity with the Disaster Management Act, 2005. The opening of religious places and holding of religious congregations cannot be relaxed on the analogy of opening of business establishments. The imposition of restrictions is not repugnant to Article 25 of the Constitution of India. Article 25 guarantees that every person shall have the freedom of conscience and right to profess, practice and propagate religion, subject to restrictions imposed by the State, namely on the ground of -

- (a) public order, morality and health;

- (b) to the other provisions of the Constitution;
 - (c) regulation of non-religious activity associated with the religious practice;
 - (d) social welfare and reform.
26. The freedom to religion is subject to public order, morality and public health. It is an extra ordinary situation. In order to safeguard the health of the society, restrictions have to be imposed by closing down all the places of worship for public, including holding of religious congregations/gatherings. The restrictions imposed are reasonable based on objectivity. The restrictions do not amount to interference in the religious affairs of any community.
27. The closure of religious places of worship during the period of spread of Corona virus, that too as a temporary measure, is a regulation and not prohibition. The restrictions, if imposed by the Respondents will not violate any fundamental or legal right of the petitioner or the similarly situated persons. The endeavour of the Respondents should be to break the cycle by maintaining social distancing. This calls for judicial interference in an executive decision which has not kept the larger public interest in mind.
28. It would be appropriate to quote Woodrow Wilson's statement mentioned in book titled "Democracy" written by David A. Moss, as under :-

Woodrow Wilson had much the same thing in mind when he declared that "government is not a machine, but a living thing. It falls, not under the theory of the universe, but under the theory of organic life. It is accountable to Darwin, not to Newton. It is modified by its environment, necessitated by its tasks, shaped to its functions by the sheer pressure of life."

29. This passage is extracted from Woodrow Wilson's book - The New Freedom: A Call for the Emancipation of the Generous Energies of a

People (New York : Doubleday, Page, 1913), 47. Wilson described the book, as “the result of the editorial literary skill of Mr. William Bayard Hale, who has put together here in their right sequences the more suggestive portions of my campaign speeches [from 1912]” (vii). The Respondent nos. 1&2 are bound to implement the guidelines issued by the Respondent nos. 3&4 from time to time punctually and in letter and spirit. The right of the State to impose restrictions, as are required or found necessary on the ground of public order, health and morality, is inbuilt under Articles 25 and 26 of the Constitution of India.

30. It is reiterated that the restrictions, if imposed shall neither arbitrary nor excessive. The imposition of restrictions constitutes a ‘paternalistic act’. The restrictions are in collective interest of the society at large. Merely that in certain areas restrictions have been relaxed cannot be a ground to relax the same qua religious places of worship. The discretion not to permit opening of all the places of worship for public and prohibiting holding of religious congregations/gatherings has to be exercised judiciously. Accordingly, in view of the observations and discussions made here-in-above, we can not direct the State Government to relax the restrictions qua religious places of worship.
31. Your petitioner craves leave to make appropriate submissions of law at the time of hearing.
32. This application is bona fide and made for the ends of justice.
33. Being aggrieved by and dissatisfied with the impugned arbitrary acts of the respondents and their acts in violation of the fundamental rights of those whom your petitioner represents and the culpable inaction of the respondent authorities and the insensitive and short sighted decision of the state and also the Union, your petitioner begs to move your Lordships in the public interest on the following amongst other

G R O U N D S

- I. For that on account of the recent outbreak of Novel Corona Virus i.e. COVID 19, the nation had been put under an unprecedented lockdown since evening of 23rd March, 2020 in order to prevent further spread of the same. The only way to prevent the spread of the virus is social distancing. Under such circumstances, non-essential activities such as opening of places of worship should be strongly discouraged.
- II. For that a notification was issued by the Ministry of Home Affairs, whereby all activities were to be opened up in a phased manner. The opening of places of worship has been categorised under Phase – I. This is completely unnecessary given that religious places and places of worship are non-essential activities.
- III. For that pursuant to the above notification, a Memo containing guidelines was issued by the Government of West Bengal, whereby all activities were to be opened up in a phased manner. The opening of places of worship has already been ordered to open on June 1, 2020. This is completely unnecessary given that religious places and places of worship are non-essential activities.
- IV. For that it is the prerogative of the State Government and the Central Government to take all possible measures to contain the spread of the current pandemic. It is imperative that social distancing be practiced and all non-essential activities such as the places of worship be kept in abeyance.
- V. For that it has also been notified that such a decision shall be take in consultation with the police and that despite the ongoing lockdown, no person shall be allowed to gather or assemble in the premises, which then inevitably lead to a gathering **outside** such premises.

- VI. For that the chief minister of the State of West Bengal in her statement to the press on May 30, 2020 stated that if large number of passengers could be packed in train coaches and allowed to travel, then there was no harm in throwing open the doors of religious places for devotees.
- VII. For that the respondent no 1 vide the abovementioned consolidated guidelines dated May 28, 2020 ordered the closure of all educational institutions, the same if not extended despite the opening of the lockdown, will lead to a high risk of the spread of virus among young school children.
- VIII. For that despite the aforesaid steps having been taken by the respondent no 1, the people of the state of West Bengal continue to be deprived of the benefits that accrue from the aforesaid notifications and till date the migrant workers are living in deplorable conditions.
- IX. For that the inaction on part of the respondents is highly negligent in times of such utter distress unless necessary orders are passed to ensure that strict social distancing be practised for the benefit of the people, the country shall suffer more deaths out of such carelessness amidst the pandemic.
34. The balance of convenience is entirely in favour of orders being passed as prayed for herein by the petitioner.
35. Further if the reliefs sought for are not granted grave prejudice and irreparable harm would be caused to the poor and needy people as a whole.
36. The petitioner has not preferred any other petition seeking similar relief before this Hon'ble Court or before any other Court or authority in India.

37. This Hon'ble Court has the jurisdiction to entertain the present writ petition as the petitioner's premises and the offices of the respondent no. 1 and 2 are situated within the jurisdiction of this Hon'ble Court.
38. The petitioner states that in view of the extended period of lockdown as declared by the Hon'ble Chief Minister of West Bengal on May 30 2020 where such period has been extended till June 15, 2020 and the places of worship have been ordered to open from June 1, 2020. As such, unless the instant application is heard out at the earliest, the people of the State of West Bengal shall continue to suffer due to lack of social distancing due to the callous attitude of the government. The petitioner prays that unless the present issue is looked into at its earliest, a huge number of people shall be headed towards death on account of the pandemic.
39. Unless orders are passed as prayed for herein, the petitioner as well the people of State of West Bengal will severely suffer and may die for want of social distancing and the inaction on the part of the respondents, and their inability to give effect to the decisions taken by them.
40. This application is bona fide and made for the ends of justice.

In the aforesaid circumstances, your petitioner most respectfully prays that Your Lordships be graciously pleased to pass the following orders -

- a) A writ of or in the nature of Mandamus do issue directing respondent nos. 1 and 2 to immediately take steps for effective revocation of the guideline ordering opening up places of worship by notifications dated May 30, 2020 throughout the State of West

Bengal and to pre-emptively take measures to prevent the spread of COVID 19.

- b) A writ of or in the nature of Mandamus do issue directing respondent no. 2 to give out necessary directions to all police stations in the state to prevent people from gathering inside and outside places of worship;
- c) A writ of or in the nature of Mandamus do issue directing respondent nos.1 to 4 to give out necessary directions to all schools in consultation with Respondent nos. 5 to 7 to refrain from opening such educational institutions for children upto 12 years from physical functioning till it is certified safe for children (upto 12 years) by the health authorities, as they are at maximum risk of contracting COVID 19. Till such time only online classes be held and all arrangements and provisions be made for initiation or continuation of the same;
- d) A writ of or in the nature of Mandamus do issue directing respondent nos.1 to 4 to give out further necessary directions to all police and relevant district administration officials to ensure safe and sanitary living conditions for migrant workers who are mandatorily sent to institutional quarantine to ensure minimum living standards and to curb further spread of COVID 19;
- e) A writ in the nature of Certiorari directing the respondents to bring on record documents

considered for framing specific guidelines directing opening of places of worship and demonstrating the assumption of safety in doing so, so that conscionable justice may be done by quashing the same;

- f) Rule Nisi in terms of the prayers above;
- g) Such further order or orders be passed and/or direction or directions be given as to this Hon'ble Court may deem fit and proper;

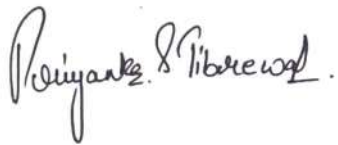
And for this act of kindness, your petitioner, as in duty bound shall ever pray.

Prityank S. Tibrewal.

AFFIDAVIT

I, Priyanka Tibrewal, Wife of Aditya Tibrewal, aged about- 39 years, by faith- Hindu, by occupation- Advocate, residing at 54/10, DC Dey Road, Kolkata – 700015, do hereby solemnly affirm and declare as follows:

1. That I am the petitioner in person in the present case and I am fully acquainted with the facts and circumstances of the present case as such I am fully competent to sign and affirm this affidavit.
2. That the statements made in paragraphs 1-5 are true to my knowledge, the statements made in paragraphs 6-10, 12, 13, 18, 28, 29 are matters of record and the rest are my humble submissions before this Hon'ble Court.

A handwritten signature in black ink, reading "Priyanka Tibrewal". The signature is written in a cursive style with a large initial 'P'.

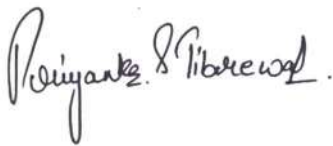
Deponent

Date: 4th June 2020

UNDERTAKING

I, Priyanka Tibrewal, Wife of Aditya Tibrewal, aged about- 39 years, by faith- Hindu, by occupation- Advocate, residing at 54/10, DC Dey Road, Kolkata – 700015, do hereby solemnly affirm and declare as follows:

1. That I am the petitioner in person in the present case and I am fully acquainted with the facts and circumstances of the present case as such I am fully competent to sign and affirm this undertaking.
2. That I duly undertake that I shall file requisite court fees and hard copy of the petition along with all annexures within 2 days of the reopening of this Hon'ble Court.
3. The statements made above are true to my knowledge and belief.



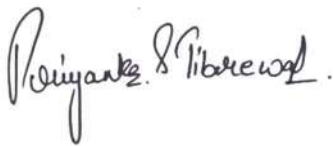
Deponent

Date: 4th June 2020.

DECLARATION/CONSENT

I, Priyanka Tibrewal, Wife of Aditya Tibrewal, aged about- 39 years, by faith- Hindu, by occupation- Advocate, residing at 54/10, DC Dey Road, Kolkata – 700015, do hereby solemnly affirm and declare as follows:

1. That I am the petitioner in person in the present case and I am fully acquainted with the facts and circumstances of the present case as such I am fully competent to sign and affirm this declaration/consent.
2. That I am giving my consent for the present proceedings to be heard via video conferencing at my Skype ID at 'adityatibrewal' or Whatsapp video call at 9831305683 by the name of 'Priyanka Tibrewal' so that the same can be conducted in the manner as laid down by this Hon'ble Court.
3. The statements made above are true to my knowledge and belief.



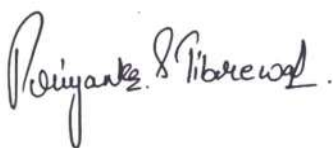
Deponent

Date: 4th June 2020

AFFIDAVIT CITING URGENCY

I, Priyanka Tibrewal, Wife of Aditya Tibrewal, aged about- 39 years, by faith- Hindu, by occupation- Advocate, residing at 54/10, DC Dey Road, Kolkata – 700015, do hereby solemnly affirm and declare as follows:

1. That I am the petitioner in person in the present case and I am fully acquainted with the facts and circumstances of the present case as such I am fully competent to sign and affirm this declaration/consent.
2. That in view of the MHA guidelines for phased reopening (Unlock -I) of places of worship with effect from June 8, 2020, which has been declared on 30.05.2020 and the pursuant Memo issued by the State of West Bengal on the same date and in view of the continuing number of upward spiraling COVID-19 positive cases across the state, I state that unless the present application is heard out, the people throughout the state shall continue to suffer due to state apathy. As such it is of utmost urgency that the present application be heard out at the earliest.
3. The statements made above are true to my knowledge and belief.



Deponent

Date: 4th June 2020.

Consolidated Guidelines on the measures to be taken by Ministries/ Departments of Government of India, State/Union Territory Governments and State/ Union Territory Authorities for containment of COVID-19 Epidemic in the Country, as notified by Ministry of Home Affairs on 24.03.2020 and further modified on 25.03.2020 and 27.03.2020.

1. Offices of the Government of India, its Autonomous/ Subordinate Offices and Public Corporations shall remain closed.

Exceptions:

- a. Defence, central armed police forces.
- b. Treasury (including, Pay & Accounts Offices, Financial Advisers and field offices of the Controller General of Accounts, **with bare minimum staff**),
- c. Public utilities (including petroleum, CNG, LPG, PNG), power generation and transmission units, post offices.
- d. Disaster management and Early Warning Agencies
- e. National Informatics Centre.
- f. Customs clearance at ports/airports/land border, GSTN; and MCA 21 Registry **with bare minimum staff**.
- g. Reserve Bank of India and RBI regulated financial markets and entities like NPCI, CCIL, payment system operators and standalone primary dealers **with bare minimum staff**.

2. Offices of the State/ Union Territory Governments, their Autonomous Bodies, Corporations, etc. shall remain closed.

Exceptions:

- a. Police, home guards, civil defence, fire and emergency services, disaster management, and prisons.
- b. District administration and Treasury (including field offices of the Accountant General **with bare minimum staff**)
- c. Electricity, water, sanitation.
- d. Municipal bodies—Only staff required for essential services like sanitation, personnel related to water supply etc.
- e. Resident Commissioner of States, in New Delhi **with bare minimum staff**, for coordinating Covid-19 related activities and internal kitchens operations.
- f. Forest offices :Staff/ workers required to operate and maintain zoo, nurseries, wildlife, firefighting in forests, watering plantations, patrolling and their necessary transport movement.
- g. Social Welfare Department, **with bare minimum staff**, for operations of Homes for children/ disables/ senior citizens/ destitute/ women /widows; Observation homes; pensions.
- h. Agencies engaged in procurement of agriculture products, including MSP operations.

- i. 'Mandis' operated by the Agriculture Produce Market Committee or as notified by the State Government.

The above offices (Sl. No 1 & 2) should work with minimum number of employees. All other offices may continue to work-from-home only.

3. Hospitals, Veterinary Hospitals and all related medical establishments, including their manufacturing and distribution units, both in public and private sector, such as dispensaries, chemist, Pharmacies (including Jan Aushadhi Kendra) and medical equipment shops, laboratories, Pharmaceutical research labs, clinics, nursing homes, ambulance etc. will continue to remain functional. The transportation for all medical personnel, nurses, para-medical staff, other hospital support services be permitted.

4. Commercial and private establishments shall be closed down.

Exceptions:

- a. Shops, including ration shops (under PDS), dealing with food, groceries, fruits and vegetables, dairy and milk booths, meat and fish, animal fodder, fertilizers, seeds and pesticides. However, district authorities may encourage and facilitate home delivery to minimize the movement of individuals outside their homes.
- b. Banks, insurance offices, and ATMs including IT vendors for banking operations; Banking Correspondent and ATM operation and cash management agencies.
- c. Print and electronic media.
- d. Telecommunications, internet services, broadcasting and cable services. IT and IT enabled Services only (for essential services) and as far as possible to work from home.
- e. Delivery of all essential goods including food, pharmaceuticals, medical equipment through E-commerce.
- f. Petrol pumps, LPG, Petroleum and gas retail and storage outlets.
- g. Power generation, transmission and distribution units and services.
- h. Capital and debt market services as notified by the Securities and Exchange Board of India.
- i. Cold storage and warehousing services.
- j. Private security services.
- k. Data and call centers **for Government activities only.**
- l. Farming operations by farmers and farm workers in the field.
- m. 'Custom Hiring Centres (CHC)' related to farm machinery.

All other establishments may work-from-home only.

5. Industrial Establishments will remain closed.

Exceptions:

- a. Manufacturing units of essential goods, including drugs, pharmaceutical, medical devices, their raw materials & intermediates.
 - b. Production units, which require continuous process, after obtaining required permission from the State Government.
 - c. Coal and mineral production, transportation, supply of explosives and activities incidental to mining operations.
 - d. Manufacturing units of packaging material for food items, drugs, pharmaceutical and medical devices.
 - e. Manufacturing and packaging units of Fertilizers, Pesticides and Seeds
6. All transport services – air, rail, roadways – will remain suspended.
- Exceptions:
- a. Transportation for essential goods only.
 - b. Fire, law and order and emergency services.
 - c. Operations of Railways, Airports and Seaports for cargo movement, relief and evacuation and their related operational organisations.
 - d. Inter-state movement of goods/ cargo for inland and exports.
 - e. Cross land border movement of essential goods including petroleum products and LPG, food products, medical supplies.
 - f. Intra and inter-state movement of harvesting and sowing related machines like combined harvester and other agriculture/horticulture implements.
7. Hospitality Services to remain suspended
- Exceptions:
- a. Hotels, homestays, lodges and motels, which are accommodating tourists and persons stranded due to lockdown, medical and emergency staff, air and sea crew.
 - b. Establishments used/ earmarked for quarantine facilities.
8. All educational, training, research, coaching institutions etc. shall remain closed.
9. All places of worship shall be closed for public. No religious congregations will be permitted, without any exception.
10. All social/ political/ sports/ entertainment/ academic/ cultural/ religious functions / gatherings shall be barred.
11. In case of funerals, congregation of not more than twenty persons will be permitted.
12. All persons who have arrived into India after 15.02.2020, and all such persons who have been directed by health care personnel to remain under strict home/ institutional quarantine for a period as decided by local Health Authorities, failing which they will be liable to legal action under Sec. 188 of the IPC.

13. Wherever exceptions to above containment measures have been allowed, the organisations/employers must ensure necessary precautions against COVID-19 virus, as well as social distance measures, as advised by the Health Department from time to time.
14. In order to implement these containment measures, the District Magistrate will deploy Executive Magistrates as Incident Commanders in the respective local jurisdictions. The Incident Commander will be responsible for the overall implementation of these measures in their respective jurisdictions. All other line department officials in the specified area will work under the directions of such incident commander. The Incident Commander will issue passes for enabling essential movements as explained.
15. All enforcing authorities to note that these strict restrictions fundamentally relate to movement of people, but not to that of essential goods.
16. The Incident Commanders will in particular ensure that all efforts for mobilization of resources, workers and material for augmentation and expansion of hospital infrastructure shall continue without any hindrance.
17. Any person violating these containment measures will be liable to be proceeded against as per the provisions of Section 51 to 60 of the Disaster Management Act, 2005, besides legal action under Sec. 188 of the IPC.

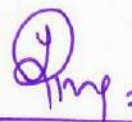
**Government of West Bengal
Department of Health and Family Welfare**

Memo No.H&FW/173/20

Dated 27/05/2020

**Revised SOP for Medical Screening of Migrant Workers/Stranded Tourists/Students
arriving in Groups**

1. All the migrant workers/stranded tourists/stranded students arriving at different stations/state borders in groups will be sent to the destination districts. District administration of the disembarking station/ state border will communicate the details of these persons to the destination district immediately.
2. All arriving persons will be medically screened at the destination district. District administration will put up proper facility for this purpose. Details of all arriving persons including their residential addresses and phone numbers will also be collected at this point. Special attention will be given to the medical screening of the people arriving from five high burden States e.g. Maharashtra, Delhi, Gujarat, Madhya Pradesh and Tamil Nadu.
3. After medical screening, all **asymptomatic persons, other than those coming from above mentioned five high burden states**, will be released with an instruction for 14 days strict home quarantine.
4. All the **persons coming from the above mentioned five high burden states** will be taken for institutional quarantine, as far as possible close their residence, for 14 days.
5. Family members of quarantined persons will be allowed to provide food to them without coming into any physical contact. In case food is not available from the family members, suitable fooding arrangements will be done by the district administration with the help of local SHGs as done in the case of relief camps. The in-charge of the quarantine centre will ensure proper sanitization of the quarantine centre and maintenance of health hygiene protocol. Norms of social distancing shall be strictly enforced in these quarantine centers.
6. Swab of only symptomatic persons will be collected and those with mild symptoms and not coming from above mentioned five high burden states, will be released with an instruction for 14 days strict home quarantine.
7. All the persons with moderate to severe symptoms will be treated as per COVID-19 health management guidelines.
8. All the persons in institutional quarantine will be medically examined and tested as per ICMR guidelines, if required, before release.
9. For persons in home quarantine, an advisory containing Do's and Don'ts shall be provided by the district administration which shall also include a clear warning that any violation of home quarantine conditions shall invite penal action. The details of all such persons shall be collected in "Sandhane" app for further tracking.
10. Regular monitoring of people in home/institutional quarantine shall be done by the district administration. For any person developing symptoms, protocol of isolation, testing and treatment shall apply.



ANNEXURE P-2

To

1. The Hon'ble Governor of West Bengal,
Raj Bhawan,
Kolkata - 700001.
2. The Hon'ble Chief Justice,
High Court,
Kolkata - 700 001.
3. The Hon'ble Chief Minister,
Government of West Bengal,
"Nabanna", 14th floor, HRBC Building,
325, Sarat Chatterjee Road,
Howrah - 711102.
4. The Hon'ble Chairperson,
West Bengal Human Rights Commission,
Purta Bhawan, 2nd floor, Block - DF, Sector - 1,
Salt Lake City, Kolkata - 700 091.
5. The Director General of Police,
"Nabanna" HRBC Building,
325, Sarat Chatterjee Road,
Howrah - 711102.
6. The Commissioner of Police,
18, Lal Bazar Street,
Kolkata - 700 001.
7. The Deputy Commissioner of Police,
(South-West),
255/257, Deshapran Sashmal Road,
Kolkata - 700 033.

Sub : Complaint of threat, criminal intimidation, mis-behaviour and threat of murder by the Shri Arup Kumar Banerjee being the Officer-in-Charge of Taratalla Police Station.

Sir,

I, the undersigned, beg to inform your goodself of such matters as are being stated hereunder with request for your goodself's kind intervention, assistance and help in such regard.

I am a social worker having my office at 11, Goragacha, Taratalla, Kolkata - 700 053. I have been a social activist since many years and by dint of my work I have gained respect and love of all residents of the area and various people approach me for assistance as and when so required by them.

On 29.05.2020 some persons approached me stating that five migrant workers, who had returned from Maharashtra, had been locked up, ostensible for the purpose of quarantine, inside a defunct "Sulabh" lavatory at 11, Goragacha, Taratalla, Kolkata – 700 053, which is a short distance away from my office, by the local police. I was requested to intervene and have the said five migrant workers accommodated in an inhabitable place for quarantine. I went to the said place and found the same stinking and reeking pungent smell.

I went to Taratalla Police Station and met the Officer-in-Charge Shri Arup Kumar Banerjee. I apprised him of the matter with request to him to kindly arrange for a habitable accommodation for quarantine of the said five migrant workers. The said Shri Banerjee, upon my such request, told me that it would be better that the said five migrant workers to die as they were a burden upon the overburdened state administration. When I reminded him that they were also human beings, he flared up and said that he would do as he pleased and ordered me to "get out" of "his Police Station". When I persisted with my request he threatened to throw me in the lock-up and break my bones in my body. I told him that as it was the right of the said five migrant workers to have human rights and treatments, he told me that I was unaware of the power and influence that he wielded and that he was capable of making me "disappear" for ever from the face of earth. He also told me to pack my bag and baggages and run away to Bihar or else he would exterminate me if I ever came within his eyesight.

After I left the police station I received a call from mobile number 9836813444 made by the said Shri Banerjee wherein he further threatened me and the call is recorded and preserved by my mobile phone. The CCTV footage of Taratalla Police Station will also establish the facts.

Such behaviour and threats had not been expected by me from a senior police officer and I have been traumatised by the same.

I am requesting your goodself to inquire into the matter and being satisfied of the facts as narrated herein to take appropriate actions against the said Shri Arup Kumar Banerjee.

Thanking you,

Yours sincerely,

From:
Mahesh B. Baidya,
 son of late Ranjit Baidya,
 11, Goragacha, Taratalla,
 Kolkata – 700 053.
 (M) 9875492552.

No. 40-3/2020-DM-I(A)
Government of India
Ministry of Home Affairs

North Block, New Delhi-110001

Dated 30th May, 2020

ORDER

Whereas, an Order of even number dated 17.05.2020 was issued for containment of COVID-19 in the country, for a period upto 31.05.2020;

Whereas, in exercise of the powers under section 6(2)(i) of the Disaster Management Act, 2005, National Disaster Management Authority (NDMA) has directed the undersigned to issue an order to extend the lockdown in Containment Zones upto 30.06.2020, and to re-open prohibited activities in a phased manner in areas outside Containment Zones;

Now therefore, in exercise of the powers, conferred under Section 10(2)(l) of the Disaster Management Act 2005, the undersigned hereby directs that guidelines, as *Annexed*, will remain in force upto 30.06.2020.


Union Home Secretary

and, Chairman, National Executive Committee (NEC)

To:

1. The Secretaries of Ministries/ Departments of Government of India
2. The Chief Secretaries/Administrators of States/Union Territories

(As per list attached)

Copy to:

- i. All members of the National Executive Committee
- ii. Member Secretary, National Disaster Management Authority

Guidelines for Phased Re-opening (Unlock 1)

[As per Ministry of Home Affairs (MHA) Order No. 40-3/2020-DM-I (A) dated 30th May, 2020]

1. Phased re-opening of areas outside the Containment Zones

In areas outside Containment Zones, all activities will be permitted, except the following, which will be allowed, with the stipulation of following Standard Operating Procedures (SOPs) to be prescribed by the Ministry of Health and Family Welfare (MoHFW), in a phased manner:

Phase I

The following activities will be allowed with effect from 8 June, 2020:

- (i) Religious places/ places of worship for public.
- (ii) Hotels, restaurants and other hospitality services.
- (iii) Shopping malls.

Ministry of Health & Family Welfare (MoHFW) will issue Standard Operating Procedures (SOPs) for the above activities, in consultation with the Central Ministries/ Departments concerned and other stakeholders, for ensuring social distancing and to contain the spread of COVID-19.

Phase II

Schools, colleges, educational/ training/ coaching institutions etc., will be opened after consultations with States and UTs. State Governments/ UT administrations may hold consultations at the institution level with parents and other stakeholders. Based on the feedback, a decision on the re-opening of these institutions will be taken in the month of July, 2020.

MoHFW will prepare SOP in this regard, in consultation with the Central Ministries/ Departments concerned and other stakeholders, for ensuring social distancing and to contain the spread of COVID-19.

Phase III

Based on the assessment of the situation, dates for re-starting the following activities will be decided:

- (i) International air travel of passengers, except as permitted by MHA.
- (ii) Metro Rail.
- (iii) Cinema halls, gymnasiums, swimming pools, entertainment parks, theatres, bars and auditoriums, assembly halls and similar places.
- (iv) Social/ political/ sports/ entertainment/ academic/ cultural/ religious functions and other large congregations.

2. National Directives for COVID-19 Management

National Directives for COVID-19 Management, as specified in **Annexure I**, shall continue to be followed throughout the country.


30/5/20

3. Night curfew

Movement of individuals shall remain strictly prohibited between 9.00 pm to 5.00 am throughout the country, except for essential activities. Local authorities shall issue orders, in the entire area of their jurisdiction, under appropriate provisions of law, such as under Section 144 of CrPC, and ensure strict compliance.

4. Lockdown limited to Containment Zones

- (i) Lockdown shall continue to remain in force in the Containment Zones till 30 June, 2020.
- (ii) Containment Zones will be demarcated by the District authorities after taking into consideration the guidelines of MoHFW.
- (iii) In the Containment Zones, only essential activities shall be allowed. There shall be strict perimeter control to ensure that there is no movement of people in or out of these zones, except for medical emergencies and for maintaining supply of essential goods and services. In the Containment Zones, there shall be intensive contact tracing, house-to-house surveillance, and other clinical interventions, as required. Guidelines of MoHFW shall be taken into consideration for the above purpose.
- (iv) States/ UTs may also identify Buffer Zones outside the Containment Zones, where new cases are more likely to occur. Within the buffer zones, restrictions as considered necessary may be put in place by the District authorities.


5. States/ UTs, based on their assessment of the situation, may prohibit certain activities outside the Containment zones, or impose such restrictions as deemed necessary.

6. Unrestricted movement of persons and goods

- (i) There shall be no restriction on inter-State and intra-State movement of persons and goods. No separate permission/ approval/ e-permit will be required for such movements.
- (ii) However, if a State/ UT, based on reasons of public health and its assessment of the situation, proposes to regulate movement of persons, it will give wide publicity in advance regarding the restrictions to be placed on such movement, and the related procedures to be followed.
- (iii) Movement by passenger trains and *Shramik* special trains; domestic passenger air travel; movement of Indian Nationals stranded outside the country and of specified persons to travel abroad; evacuation of foreign nationals; and sign-on and sign-off of Indian seafarers will continue to be regulated as per SOPs issued.
- (iv) No State/ UT shall stop the movement of any type of goods/ cargo for cross land-border trade under Treaties with neighbouring countries.

7. Protection of vulnerable persons

Persons above 65 years of age, persons with co-morbidities, pregnant women, and children below the age of 10 years are advised to stay at home, except for essential and health purposes.

 30/5/20

8. Use of Aarogya Setu

- (i) *Aarogya Setu* enables early identification of potential risk of infection, and thus acts as a shield for individuals and the community.
- (ii) With a view to ensuring safety in offices and work places, employers on best effort basis should ensure that *Aarogya Setu* is installed by all employees having compatible mobile phones.
- (iii) District authorities may advise individuals to install the *Aarogya Setu* application on compatible mobile phones and regularly update their health status on the app. This will facilitate timely provision of medical attention to those individuals who are at risk.

9. Strict enforcement of the guidelines

- (i) State/ UT Governments shall not dilute these guidelines issued under the Disaster Management Act, 2005, in any manner.
- (ii) All the District Magistrates shall strictly enforce the above measures.

10. Penal provisions

Any person violating these measures will be liable to be proceeded against as per the provisions of Section 51 to 60 of the Disaster Management Act, 2005, besides legal action under Section 188 of the IPC, and other legal provisions as applicable. Extracts of these penal provisions are at **Annexure II**.


Union Home Secretary

and, Chairman, National Executive Committee

Annexure I

National Directives for COVID-19 Management

1. **Face coverings:** Wearing of face cover is compulsory in public places; in workplaces; and during transport.
2. **Social distancing:** Individuals must maintain a minimum distance of 6 feet (2 gaz ki doori) in public places.
Shops will ensure physical distancing among customers and will not allow more than 5 persons at one time.
3. **Gatherings:** Large public gatherings/ congregations continue to remain prohibited.
Marriage related gatherings : Number of guests not to exceed 50.
Funeral/ last rites related gatherings : Number of persons not to exceed 20.
4. **Spitting in public places** will be punishable with fine, as may be prescribed by the State/ UT local authority in accordance with its laws, rules or regulations.
5. **Consumption of liquor, paan, gutka, tobacco etc.** in public places is prohibited.

Additional directives for Work Places

6. **Work from home (WfH):** As far as possible the practice of WfH should be followed.
7. **Staggering of work/ business hours** will be followed in offices, work places, shops, markets and industrial & commercial establishments.
8. **Screening & hygiene:** Provision for thermal scanning, hand wash and sanitizer will be made at all entry and exit points and common areas.
9. **Frequent sanitization** of entire workplace, common facilities and all points which come into human contact e.g. door handles etc., will be ensured, including between shifts.
10. **Social distancing:** All persons in charge of work places will ensure adequate distance between workers, adequate gaps between shifts, staggering the lunch breaks of staff, etc.



Offences and Penalties for Violation of Lockdown Measures

A. Section 51 to 60 of the Disaster Management Act, 2005

51. Punishment for obstruction, etc.—Whoever, without reasonable cause —

- (a) obstructs any officer or employee of the Central Government or the State Government, or a person authorised by the National Authority or State Authority or District Authority in the discharge of his functions under this Act; or
- (b) refuses to comply with any direction given by or on behalf of the Central Government or the State Government or the National Executive Committee or the State Executive Committee or the District Authority under this Act,

shall on conviction be punishable with imprisonment for a term which may extend to one year or with fine, or with both, and if such obstruction or refusal to comply with directions results in loss of lives or imminent danger thereof, shall on conviction be punishable with imprisonment for a term which may extend to two years.

52. Punishment for false claim.—Whoever knowingly makes a claim which he knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the Central Government, the State Government, the National Authority, the State Authority or the District Authority, shall, on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

53. Punishment for misappropriation of money or materials, etc.—Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or goods, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates for his own use or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

54. Punishment for false warning.—Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment which may extend to one year or with fine.

55. Offences by Departments of the Government.—(1) Where an offence under this Act has been committed by any Department of the Government, the head of the Department shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Department of the Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the Department, such officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

56. Failure of officer in duty or his connivance at the contravention of the provisions of this Act.—Any officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself from the duties of his office shall, unless he has obtained the express written permission of his official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term which may extend to one year or with fine.

57. Penalty for contravention of any order regarding requisitioning.—If any person contravenes any order made under section 65, he shall be punishable with imprisonment for a term which may extend to one year or with fine or with both.

58. Offence by companies.—(1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to, the company, for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also, be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section—

- (a) “company” means anybody corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

59. Previous sanction for prosecution.—No prosecution for offences punishable under sections 55 and 56 shall be instituted except with the previous sanction of the Central Government or the State Government, as the case may be, or of any officer authorised in this behalf, by general or special order, by such Government.

60. Cognizance of offences.—No court shall take cognizance of an offence under this Act except on a complaint made by—

- (a) the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised in this behalf by that Authority or Government, as the case may be; or
- (b) any person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and his intention to make a complaint to the National Authority, the State Authority, the Central Government, the State Government, the District Authority or any other authority or officer authorised as aforesaid.

B. Section 188 in the Indian Penal Code, 1860

188. Disobedience to order duly promulgated by public servant.—Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management, disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury, to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month or with fine which may extend to two hundred rupees, or with both; and if such disobedience causes or trends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce, harm.

Illustration

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this section.

ANNEXURE P-3

Government of West Bengal
Nabanna, Howrah

Memo No 218 -CS/ 2020

Dated: 30/05/2020

Whereas, following the extension of nationwide lockdown up to 31/05/2020, Government of West Bengal issued certain directives and clarifications vide Memo No 177-CS/ dated 18/05/2020 regarding restrictions and relaxations for implementation of lockdown measures to contain and combat COVID -19;

Whereas it is felt necessary to continue to implement the lockdown in the Affected Areas (containment zones) to effectively contain the spread of COVID-19 and simultaneously open up activities in other areas for socio-economic revival;

Whereas, Government of West Bengal has decided to extend the lockdown for another two weeks i.e. up to 15/06/2020 with furthers relaxations with conditions;

Therefore, in continuation of Memo No 177-CS/2020 dated 18/05/2020, following restrictions and relaxations shall apply during the period of lockdown:

- 1) The existing restrictions and interventions notified under Memo No 177-CS/2020 Dated 18/05/2020 shall continue to be in force for the areas designated as Affected Area (Category-A) as per the containment plan.
- 2) All activities permitted in Clear Area (Category -C) vide Memo No 177-CS/2020 dated 18/05/2020 shall be allowed in the Buffer Area (Category-B) w.e.f. 01/06/2020.
- 3) Following additional relaxations are allowed over and above as contained in Memo No 177-CS/2020 dated 18/05/2020 in the area outside the Affected Area:
 - i) Operations in Tea Gardens including associated activities of tea industry with 100% strength of workers w.e.f. 01/06/2020.
 - ii) Operations in Jute Mills with 100% strength of workers w.e.f. 01/06/2020.
 - iii) Operations in micro, small, medium and large industries including mining activities with 100 % of strength of workers w.e.f. 01/06/2020.
 - iv) Construction activities with 100% of strength of workers w.e.f. 01/06/2020.
 - v) Intra-state (inter-district) movement of government and private buses w.e.f. 01/06/2020, with passengers not more than the actual seating capacity of the bus. No passenger shall be allowed to travel standing in the bus. All passengers shall wear face masks and gloves during the entire journey.
 - vi) Opening of places of worship in consultation with local police station w.e.f. 01/06/2020. Not more than 10 persons at a time shall be permitted to enter the premises. Gathering or assembly of people shall not be allowed in the said premises.

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- vii) Indoor and outdoor activities related to TV and cinema production, barring reality show production, including for web-portal and OTT platforms, with not more than 35 persons per unit at a time w.e.f. 01/08/2020.
- viii) Functioning of Government offices with 70 % strength on a day on rotation basis w.e.f. 08/06/2020.
- ix) Operations of private offices and establishments w.e.f. 08/06/2020 with number of workers as decided by the management. However, work from home should be encouraged.
- x) Operations in hotels, restaurants w.e.f. 08/06/2020.
- xi) Opening of shopping malls w.e.f. 08/06/2020

Norms of social distancing and health hygiene protocol must be strictly followed. Management Committees, Trustee Boards, Governing Bodies and Owners of private institutions, organisations and establishments shall be responsible for compliance of the stated norms and guidelines.

Any violation in compliance of norms of social distancing, health protocol and wearing of masks may lead to withdrawal of relaxations provided herein as well as attract penal action as per law.

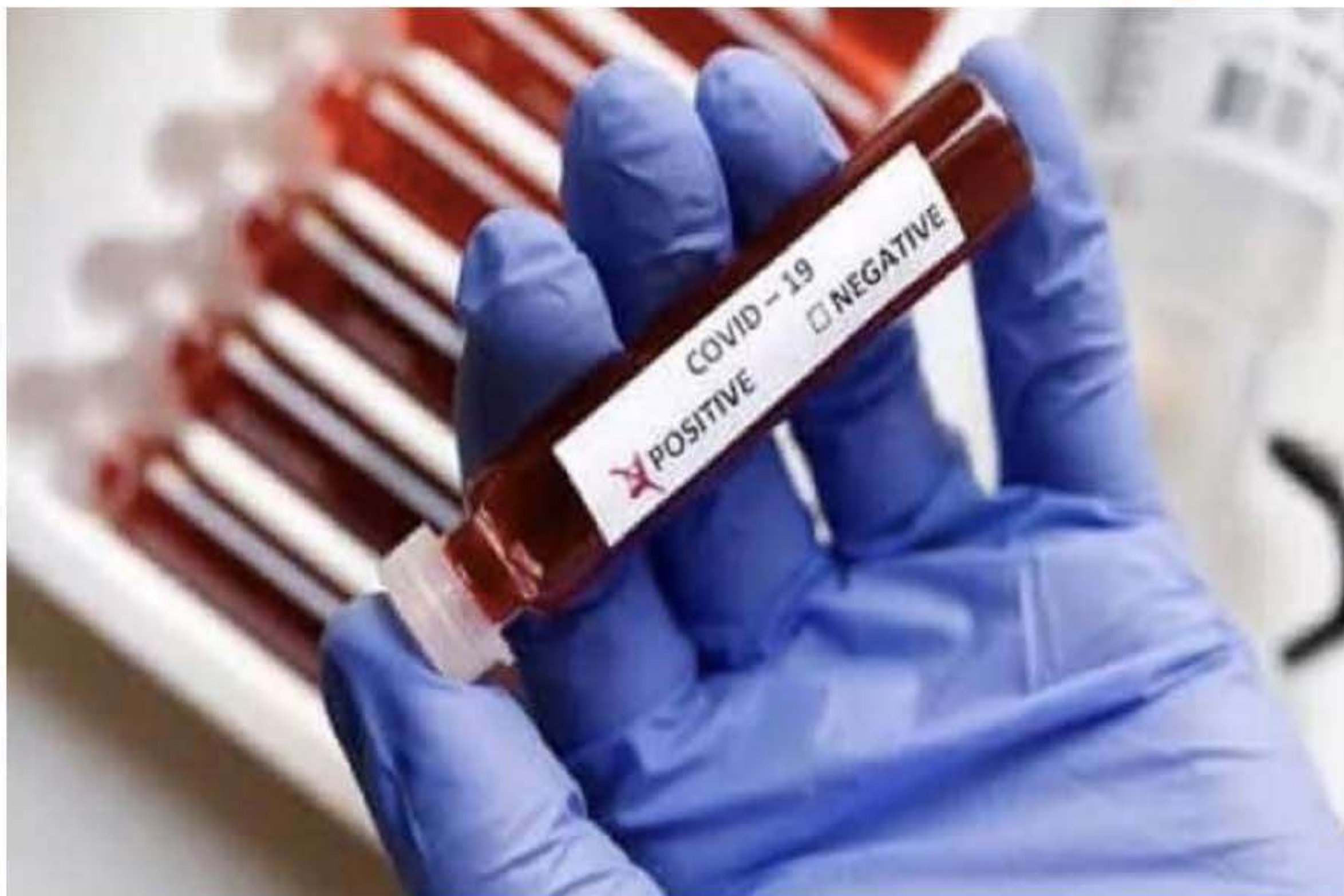

Chief Secretary

Home / Bengal / Bengal records highest spike of 396 new cases, 10 fresh deaths

Bengal records highest spike of 396 new cases, 10 fresh deaths

235 trains to arrive in Bengal till 10 June. Around 5 lakh migrant workers have already reached the state.

Statesman News Service | New Delhi | June 3, 2020 10:43 am



coronavirus (Photo: IANS)

The Coronavirus cases in the state continued to rise amidst the influx of migrant workers with many of them being detected positive. Bengal today recorded 396 new cases of Covid-19 infections, which is the highest spike in a single day so far, pushing the number of infected people in the state to 6,168.

Fresh cases have been recorded from 18 districts.

Kolkata has recorded 116 cases, which is the highest single-day count. North 24-Parganas has recorded 74 cases followed by Howrah with 49 cases.

Ten people died due to Corona in the last 24 hours taking the total death toll to 263. Among which, eight people died in Kolkata and one each in North 24-Parganas and Birbhum.

Earlier, on 31 May, 371 cases were detected and on 28 May there were 344 cases. A total 2410 Corona patients have been cured of which 104 people were discharged from hospitals since yesterday.

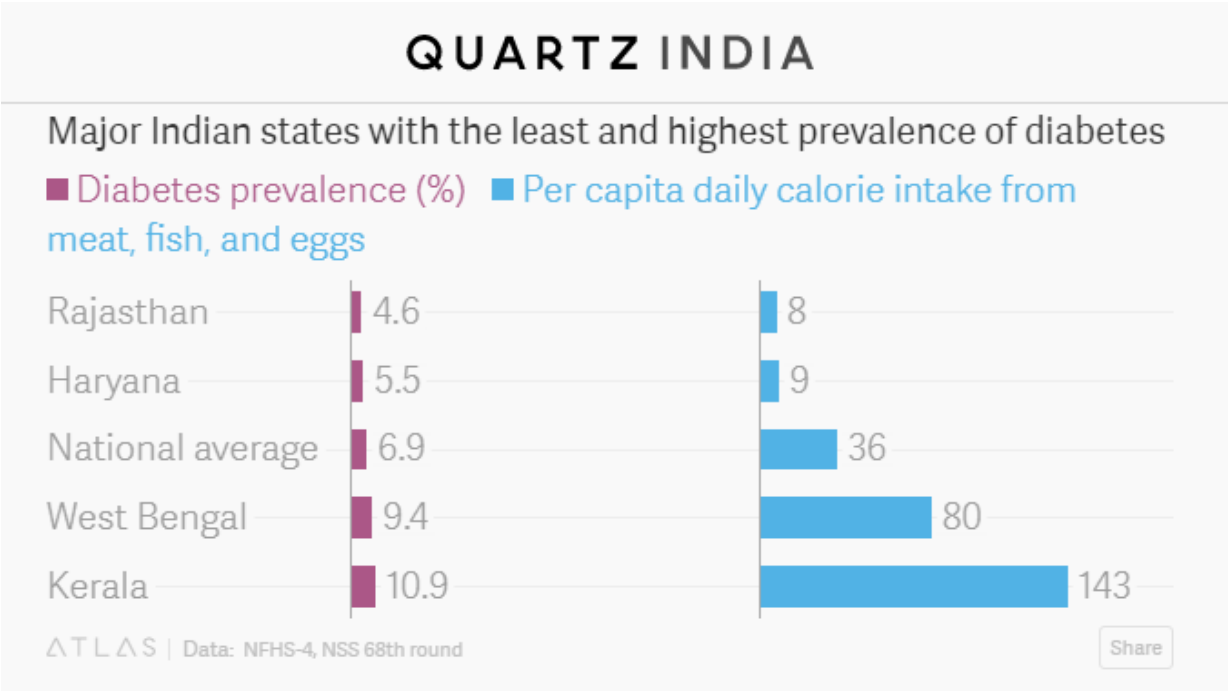
According to sources, containment areas are sealed with tin and barricade and kept under strict vigil along with regular sanitisation if required.

Essential services and medical emergency are allowed in such areas.

They should not report cases for consecutive 28 days to enter green zones. In view of a rise in the Coronavirus cases state government is considering to strengthen its existing infrastructure to combat the situation.

To begin with the government is planning to convert a few more hospitals to Covid19 hospitals. Currently, there are 69 Covid-19 hospitals in the state. In these hospitals, there are 8,785 beds among which 920 are ICU beds and there are 392 ventilators. Presently, there are 3,423 active cases in Bengal which mean that the existing infrastructure facilities are adequate.

ANNEXURE P-5



DISTRICT- Kolkata
IN THE HIGH COURT OF
CALCUTTA
(Constitutional Writ Jurisdiction)
Appellate Side

W.P. No (W) of
2020

In the matter of:
An application under Article 226 of
the Constitution of India;

And
In the matter of:
Priyanka Tibrewal
.... Petitioner (In
Person)
Versus
Union of India and Ors
.... Respondents

APPLICATION

In person:
Priyanka Tibrewal
Of 54/10, DC Dey Road,
Kolkata – 700015
M: 9831305683