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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION

PIL-CJ-LD-VC- 3-2020

Charan Ravindra Bhatt .. Petitioner

Vs.

State of Maharashtra & Ors. .. Respondents

Mr. Uday Warunjikar, Advocate for Petitioner.

Mr. A. A. Kumbhakoni, Advocate General a/w Mr. P. P. Kakade,  
Govt. Pleader a/w Ms. Shruti Vyas “B” Panel Counsel for State.

Mr. A. Y. Sakhare, Senior Advocate a/w Ms. Madhuri More a/w  
Mr. Rohan Mirpurey for MCGM.

Mr. Atul Damle, Senior Advocate a/w Ms. Swati Sagvekar for  
respondent no.6 – VVMC.

WITH  
PIL-CJ-LD-VC-11-2020

Prashant Ram Thakur .. Petitioner

Vs.

State of Maharashtra & Ors. .. Respondents

Mr. Uday Warunjikar, Advocate for Petitioner.

Mr. A. A. Kumbhakoni, Advocate General a/w Mr. P. P. Kakade,  
Govt. Pleader a/w Ms. Shruti Vyas “B” Panel Counsel for State.

Mr. A. Y. Sakhare, Senior Advocate a/w Ms. Madhuri More a/w  
Mr. Rohan Mirpurey for MCGM.

Mr. J. G. Reddy, Advocate for respondent no.6 – Panvel Municipal  
Corporation.

CORAM: DIPANKAR DATTA, CJ. &  
A. A. SAYED, J.

RESERVED ON: JUNE 05, 2020

PRONOUNCED ON: JUNE 12, 2020.

**JUDGMENT [Per Chief Justice] :**

These two PIL Petitions were heard analogously, having regard to the commonality of issues raised therein. We propose to decide the same by this common judgment and order.

2. Since the pleadings in PIL-CJ-LD-VC-3-2020 are complete and it is the lead matter, the facts and circumstances leading to its institution and the relief claimed may be discerned by referring to it.

3. The petitioner is a resident of Vasai (East) in the district of Palghar. Consequent upon the lockdown being announced to control spread of the pandemic caused by COVID-19 whereby movement of people was limited as a preventive measure, several notifications/guidelines were issued from time to time which, *inter alia*, related to sealing of borders other than movement of essential and perishable commodities. All public transport services were suspended except the services to be provided to the personnel of banks, hospitals, pharmacies, pharmaceutical manufacturing units, units engaged in distribution of LPG, etc. During the period of the lockdown which was initially imposed on March 24, 2020 for three weeks, since extended from time to time thereafter, the Petitioner noticed that certain inhabitants of Vasai-Virar municipal area were leaving for Mumbai, purportedly for rendering essential services in ministries/various departments of the Government including Police, offices of the Municipal Corporation and that

buses were being plied to transport them to Mumbai and to bring them back. According to the Petitioner, these inhabitants, who happen to be engaged in essential services including Police Department, Hospital, etc. (hereafter “the essential staffers), have been a constant source for the spread of COVID-19 infection amongst other inhabitants of Vasai Virar municipal area. Having regard to the threat that these essential staffers pose to the public at large, in particular to the inhabitants of Vasai Virar municipal area, and the imminent need to contain the spread of such infection, the Petitioner presented this PIL Petition on May 11, 2020 seeking, *inter alia*, the following relief:

“(a) This Honourable Court be pleased to issue writ of mandamus, or writ in the nature of mandamus directing the respondent to make arrangement of essential supply workers in Mumbai only who is coming from adjacent area or district including palghar etc. within such period as this Honourable Court may deem fit and proper;

OR

This Honourable Court be pleased to issue writ of mandamus, or writ in the nature of mandamus that if the respondent failed to make arrangement of accommodation of this essential supply of workers then restrain the respondent herein calling the said workers from Vasai.”

4. Appearing in support of the PIL Petition, Dr.Warunjikar, learned Advocate submitted that the concern expressed by the Petitioner is genuine and that the PIL Petition has been presented to safeguard the interest of the inhabitants of Vasai Virar municipal area. According to him, the essential staffers form a potent threat to other inhabitants of Vasai Virar municipal area and that to protect them from being infected, it is the obligation, nay duty, of the Respondents to make arrangements for accommodating such essential staffers to be accommodated in Mumbai itself. Dr.Warunjikar also referred to certain “Press Notes”issued by the Municipal Commissioner, Vasai Virar Municipal Corporation, to buttress his contention that the claims set up in the PIL Petition are not unsubstantiated.

5. The PIL Petition was moved before us on May 11, 2020. Mr.Kakade, learned Government Pleader submitted upon hearing Dr.Warunjikar's argument that the Petitioner's suggestion was not practicable and, therefore, did not merit consideration. We had, accordingly, by an order passed on that date called upon the State of Maharashtra, Respondent No.1, to file its affidavit-in-reply.

6. The PIL Petition has been opposed by the Respondent No.1, by filing an affidavit-in-reply. Paragraphs 4 and 5 of the affidavit are relevant and accordingly, set out hereunder:

“4. It is humbly submitted that in the captioned PIL, the contention of the petitioner is arising out of fear that the residents of his area working in emergency services and engaged in other work who are travelling to Mumbai and then back home are the cause for increasing number of COVID-19 cases in that area. In this regard, it is humbly submitted that given the sheer number of employees working in emergency services such as Medical services, Police, Fire services, Disaster management etc. who are living in the suburbs of Mumbai including Virar, it is not practically possible to arrange for the accommodation of all the said persons in Mumbai

especially in the current COVID-19 scenario. Making such an arrangement for the employees will put more stress on the already stressed machinery which is engaged in the fight against COVID-19.

5. It is humbly submitted that any restrictions imposed on the movement of medical professionals and para-medical staff can lead to severe impediments in rendering COVID- and non-COVID medical services. It is humbly submitted that, ensuring unhindered movement of all such medical professionals is essential for meeting the public health requirements and saving precious human lives. It is further submitted that, the functioning of private clinics and nursing homes, which supplement the regular medical infrastructure, and relieve the burden on hospitals is also crucial. It is therefore necessary to ensure that such clinics and nursing homes continue to function without any hindrances. Further more, in a letter from the Secretary, Ministry of Home Affairs, Government of India, dated 11<sup>th</sup> May 2020, it has been clearly mentioned that the Cabinet Secretary has also directed that free movement of all medical and paramedical staff has to be properly ensured so that the effectiveness of the response to the COVID 19 pandemic is not hampered. Thus smooth movement of all medical professionals, nurses, para medical staff, Sanitation personnel and ambulances is extremely essential and inevitable. Annexed herewith and marked as Annexure -A is a copy of said letter dated 11<sup>th</sup> May, 2020.”

7. Mr.Kumbhakoni, learned Advocate General, appearing for the Respondent No.1, while relying on such affidavit, contended that the PIL Petition reveals insensitivity on the part of the Petitioner. When frontline workers, engaged in combating COVID-19, as well as administrative personnel have been doing their best to keep fellow citizens free and clear of the infection spread by the pandemic, the Petitioner has approached this Court seeking relief to keep the essential staffers in isolation and to ensure that they do not have the opportunity of returning to their residences after completion of their daily work, which is most unfortunate. It has also been his contention that the PIL Petition has no element of public interest involved in it and being a move to thwart advancement of health and medi-care facilities for the distressed, it should be dismissed *in limine*.

8. Upon perusal of the affidavit-in-reply and hearing such submission, as recorded above, we had pointed out to

Dr.Warunjikar that the relief claimed in the PIL Petition may not be granted. Realizing that the PIL Petition might fail, Dr.Warunjikar advanced a plea, neither traceable in the pleadings nor in the prayer clauses. He urged that at least a direction be issued to the Respondents to make arrangements for screening/testing of the essential staffers at the entry/exit point at the border while they return to Mumbai at the end of the day.

9. At this stage, Mr.Sakhare, learned Senior Advocate representing the Municipal Commissioner of the Municipal Corporation of Greater Mumbai, Respondent No.4, invited our attention to an order dated June 4, 2020 issued by the Chief Secretary, Government of Maharashtra. Such order amended the order dated May 31, 2020 relating to “Easing of Restrictions and Phase-wise Opening of Lockdown. (MISSION BEGIN AGAIN)”. Clause 9 of the order dated May 31, 2020 contained special directions for ensuring movement of persons and goods in certain

cases. By the amending order dated June 4, 2020, sub-clause (ii) of clause 9 was amended to read as follows:

“ii. However, interstate and inter district movement of persons shall continue to be regulated. **However the inter-district movement of persons within the area of Municipal Corporations under the MMR (Mumbai Metropolitan Region) shall be allowed without any restrictions.** The movement of standard labor, migrant workers, pilgrims, tourist etc. will continue to be regulated as per SOPs issued.”

(bold in original)

10. Relying upon the amending order dated June 4, 2020, Mr.Sakhare submitted that the restrictions earlier in place for movement of persons within the State of Maharashtra have been lifted and, therefore, the PIL Petition has been rendered infructuous.

11. Mr.Damale, learned Senior Advocate appearing for the Vasai Virar Municipal Corporation also referred to such amending order and contended that the restrictions regarding movement having

been lifted, and there being more than one entry/exit point, thousands of persons are likely to exit/enter the Vasai Virar municipal area and it would be practically impossible to make arrangements for testing at all the entry-exit points. It was also contended by him that the PIL Petition being thoroughly misconceived, it is liable to be dismissed.

12. The other PIL Petition, being PIL-CJ-LD-VC-11/2020, expresses similar grievance but with regard to Panvel Municipal Corporation. Mr.Reddy, learned Advocate appearing for such corporation, adopted the submissions of Mr.Sakhare and Mr.Damale.

13. We have heard the parties and perused the materials on record.

14. We have no hesitation in our mind to opine that a sense of fear drove the Petitioners to institute these proceedings. No doubt,

the infection caused by COVID-19 is a communicable disease and also therapeutic cure is not yet available; however, the Court in exercise of its jurisdiction conferred by Article 226 of the Constitution must intervene only if such interference would be in furtherance of public interest. In the circumstances, such as the present, narrow personal interest must yield to the greater public interest that is involved. The essential staffers, having an onerous responsibility of discharging most important public duties, are perceived by the Petitioners as carriers of infection who could easily spread it among others. The Petitioners' fears of exposure to COVID-19 have been allayed by the Respondents while stating that, to the extent possible, the essential staffers have been made to follow and adhere to the precautionary measures indicated in the several Government orders on the subject. We are also inclined to the view that even if some of such staffers might have unfortunately been infected by COVID-19, that is no ground to sort of ostracise them. The authorities have been actively engaged

in formulating policies to tackle the pandemic and these essential staffers have been tirelessly working to implement the measures for the overall benefit of mankind. It is a humane approach, which is the call of the moment. The essential staffers, instead of being put to any disability because of their nature of work and also instead of being forced to reside in places away from their residences, should be encouraged to discharge their duty without fear of duress and restraint. After all, these staffers have their own families and to ensure that none of their family members is infected, it is expected that they would themselves take the greatest care and act with caution so that they are free of the infection and do not transmit the same to their near and dear ones.

15. For the above reasons, as well as the lifting of restrictions on movement as notified by the amending order dated June 4, 2020, we see no good reason to accept the claims of the Petitioners.

16. The PIL Petitions are dismissed, however, without any order as to costs.

17. This judgment will be digitally signed by the Sr. Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

**A.A.SAYED,J.**

**CHIEF JUSTICE**