

IN THE HIGH COURT OF KERALA AT ERNAKULAM

Present:

THE HONOURABLE THE CHIEF JUSTICE MR.S.MANIKUMAR

&

THE HONOURABLE MR.JUSTICE C.T.RAVIKUMAR

&

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

Tuesday, the 30th day of June 2020/9th Ashadha, 1942

WP(C) No.9400/2020(S)

THE COURT ON ITS OWN MOTION:
SUO MOTU PROCEEDINGS- COVID -19-PANDEMIC.

RESPONDENT

THE STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM-695 001.

This Suo motu writ petition again coming on for orders upon perusing the petition and this Court's order dated 26/05/2020 and upon hearing the arguments of SRI.P. VIJAYAKUMAR, ASSISTANT SOLICITOR GENERAL OF INDIA, SRI.RANJITH THAMPAN, ADDL. ADVOCATE GENERAL & SRI.SUMAN CHAKRAVARTHY, SENIOR GOVERNMENT PLEADER, the court passed the following:

rs.

P.T.O.

S. MANIKUMAR, CJ,
C.T. RAVIKUMAR, J.
&
SHAJI P. CHALY, J.

W.P (C) No. 9400 OF 2020 (Suo Motu)

Dated this the 30th day of June, 2020

ORDER

S. Manikumar, CJ

On 26.5.2020, we passed the following order:

“4. We find that as per the order dated 30.3.2020, the orders passed by this Court in various proceedings had been extended only upto 18.5.2020.

5. We, therefore, make it clear that the above order is extended and thereby all interim orders extended by one month as per order dated 25.3.2020 will stand extended up to 30.6.2020. It is open to the aggrieved party to seek for vacation of such orders before the court concerned.”

2. High Court has issued an advisory dated 16.5.2020 which reads thus:

“Sub:- Reopening of the High Court after Mid Summer vacation 2020- arrangements for the proceedings in Court and work in the Sections-reg.

The High Court will reopen on 18.05.2020 after Mid Summer vacation 2020 as already notified. As the restrictions / rules / guidelines in the light of the COVID -19 pandemic issued by the Central and State Governments are in vogue, the arrangements for the proceedings in Courts and work in the Sections will be as per the guidelines annexed herewith, until further orders.

(By Order)
Sd/-
Registrar General

ANNEXURE

GUIDELINES FOR THE COMMENCEMENT OF PROCEEDINGS IN COURTS AND WORK IN THE SECTIONS, ON REOPENING AFTER THE MID SUMMER VACATION - 2020

Sitting arrangements:

i) Sitting Through Video Conferencing

- There will be 5 Admission Courts for Writ Petitions, 2 Courts for Bail Applications and one admission Court for Civil/Criminal Miscellaneous matters which will hold sittings through Video Conferencing. Further hearing will be subject to the discretion of the Judge concerned.
- Detailed instructions for online procedure will be issued.

ii) Sitting in Court Halls

- All Division Benches and Single Judges (other than Video Conferencing) hearing Petitions and final hearing matters will hold physical sittings in Court halls.
- Separate lists for the forenoon and afternoon sessions will be published.
- Number of cases to be included in the hearing list will be decided by the Judge/s concerned.
- Only six Advocates will be allowed at a time inside the Court hall excluding the Government Pleaders/Public Prosecutors.
- Only 10 seats will be provided inside each Court hall and the rest of the seats will be arranged in the veranda outside the Court halls ensuring social distancing.
- Matters ordered to be posted for hearing by the Admission Courts shall be posted before the Courts hearing petitions and final hearing matters.
- Petitions and final hearing matters will be taken up on both parties being present in Court.
- Those who have admission matters and engaged in Video Conferencing can, with notice to the other side, specify a convenient time to the Court Officer concerned and maximum accommodation will be granted.
- Even if the Court retires, if all the contesting party in a case turn up ready, they can inform the Court Officer to enable the Court to reassemble at the discretion of the Judge concerned.

Filing:

i) Physical Filing

- Cases shall be filed in physical form except in the case of Bail Applications/W.Ps(C) and other admission matters before Single Judges.
- Advocates/Parties desirous of filing cases shall make a

- request in that regard on the previous day through e-mail.
- The Registry shall intimate the allotted time for filing to the applicant by e-mail.
 - Filing time will be from 10:00.a.m to 01:00 p.m.
 - Those who are allotted time to file case/s shall put the case file/s in the separate boxes -placed in the atrium on the ground floor, where sufficient officials of the Filing Section will be deployed.
 - The Advocate/Clerk/Party after filing, shall immediately leave the Court premises and shall not await for scrutiny to be completed.
 - No work relating to preparation of the case files including affixture of stamps, stitching etc. shall be permitted in the atrium.
 - Separate entry and exit will be provided in the atrium.
 - Filing shall be regulated by virtual queue system.
 - Filing can be made by the Advocate/Clerk/Party on showing the printout or soft copy of the intimation
 - The virtual queue shall strictly be implemented by deploying security personnel at the entry point.
 - On scrutiny, if there is any defect found, the file shall be returned only between 4:30 p.m. to 5:15 p.m. on the same day and for taking the files from Court. It shall be allowed to be re-presented only on the next day. Permission for the above to be obtained by following the same procedure as done for fresh filing.
 - Filing of cases, taking back of defect cases and re-presentation of the cases will be within the time slots allotted.
 - Urgent memos to bring up cases in the petition list shall be filed only in emergent matters after serving copy on the other side.

ii) Filing through e-mail

- Bail Application,W.Ps(C) and other admission matters before Single Judges shall be received only through e-mail.
- Physical filing of the cases filed through e-mail should be done within 3 working days. Prior information be given to the Registry.
- Detailed instructions for filing will be issued.

Entry to High Court:

- Entry of public to the High Court shall be restricted.
- Entry will be only through the three entrances at the front of the High Court building.
- Not more than two Advocates for a party having their matter listed in any Court will be allowed entry to the High Court.
- Advocates are requested to furnish the details of case listed in the Court and should carry their identity cards.

- Security personnel at the main entry, before allowing entry to the Advocates' Clerks and clients having pass, shall ensure by verifying the cause list that their case is posted during the particular session (forenoon and afternoon).
- Registered Advocates' Clerks with ID Cards shall be allowed to bring in case bundles to Court hall from 09.00 a.m to 10.00 a.m and to take back the bundles from 04.30 p.m to 05.15. p.m.
- Advocates' Clerks shall not remain in Court premises unnecessarily and shall leave the Court premises immediately after their work is over.

Security and Hygiene :

- All persons entering the High Court building shall compulsorily wear face mask. Mobile hand wash dispenser will be provided at the respective entry points.
- Apart from providing sanitizer at the points of entry of the building, sanitizer will be provided at the entrance of each Court hall.
- Only after sanitizing the hands, Advocates, staff and clerks shall enter into the Court hall.
- No room occupied by the Kerala High Court Advocates' Association except the Association office room and Library will be opened for the time being. Not more than three office staff per day will be allowed in the Association Office room.
 - Rooms occupied by the Kerala High Court Advocates' Clerks Association will not be allowed to be opened for the time being.
 - General instructions issued by the Government from time to time will be followed."

3. Situation has not changed in Kerala. On the other hand, the number of COVID cases are increasing. Taking note of the above, we asked Mr. Ranjith Thampan, learned Additional Advocate General, as to whether any modification of the order dated 25.3.2020 is required. Learned Additional Advocate General fairly submitted that interim order dated 25.3.2020 may be extended for one more month.

4. Interim order dated 25.3.2020 is extended on the same ground as above upto 3.8.2020.

5. Added further, attention of this Court is also invited to a letter

W.P(C).9400/2020

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of the Director General of Prisons & Correctional Services,
Thiruvananthapuram dated 26.6.2020 addressed to the Advocate
General, Kerala, which reads thus:

"In the outbreak of the pandemic corona virus Covid 19, The Kerala Prisons Department had taken all the possible measures to combat the spread of the virus to the jail population which is vulnerable to this disease. The Hon'ble High Court of Kerala in its judgement dated: 30.03.2020 directed to release prisoners who were incarcerated in various jails of the state and who are facing accusation of having committed offence punishable with imprisonment up to 7 years or less with or without fine. The Hon'ble court exempted to those prisoners having criminal antecedents, previous conviction and under trial or remand to custody of more than one cases. As per the direction of the Hon'ble High Court we had released 690 remand prisoners on interim bail which is much below the actual population of the remand/under trial prisoners.

In this mean while we had identified 7 covid-19 cases in 4 prisons which resulted in the closure of those institutions ie. Special Sub Jail, Trivandrum, Special Sub Jail Neyyattinkara, Sub Jail Alathur and Sub Jail, Kannur covered the new entry of prisoners with Covid positive. Taking into consideration of the situation now the Government ordered to test all newly remanded prisoners for Covid and started 14 CFLT Centers out side jails each in every district to wait until the results come negative. The Security of these CFLTS centers come on to the shoulders of the Prisons Department. About 250 prisoners are awaiting for results in these centres. Everyday about 50-70 prisoners are admitted in the centres and the daily results outcome are between 20 to 50. Last day one Asst. Prison Officer of Sub Jail Viyur was found infected by Covid 19 who tested positive and entered into treatment centre at Palakkad.

Even though some corrective measures already initiated from the Hon'ble Apex Court and the respected High Court of Kerala, Suo Moto, we are still facing the imminent threat and danger of covid-19. The present scenario may change after the entry of 1039 Prisoners on parole during the next month of July onwards. The sudden surge of prison population may become unmanageable and our department has a testing time to overcome the crisis. The balancing act of maintaining the good health of the inmates in house, the admission of prisoners from various courts to the CFLT centers and maintaining the

security of the CFLT centers away from prison institutions is to be a difficult task. We have to maintain quarantine, social distancing, etc and to obey the court orders admitting new prisoners and also re admit the parolis. The condition may become worse if the major prisons are affected by Covid pandemic.

On the above reasons, I kindly request to present before the Hon'ble Court to extend the order dated 30.03.2020 cited as Paper -2 to those remand prisoners who are already on interim bail to till the disposal of their cases or up to a date the Hon'ble Court may deems fit. It is also requested that the Hon'ble court may be approached to extend the benefit of selfbond to all those Remand Prisoners admitted in the jails Kerala after 30.03.2020. On the same condition and on self bond we can release those remanded for first time or with only one case and having no antecedents of crime. Such a decision may help our department to tide over the current crisis created out of Covid 19 pandemic. I humbly request to invite attention of the Hon'ble High Court for a favourable order in this regard."

6. On the above letter, Mr. Ranjith Thampan, learned Additional Advocate General submitted he would take appropriate steps. Submission is placed on record.

Post the matter on 3.8.2020.

Sd/-
S.MANIKUMAR,
CHIEF JUSTICE

Sd/-
C.T. RAVIKUMAR,
JUDGE

Sd/-
SHAJI P.CHALY
JUDGE

SOU.

-TRUE COPY-


ASSISTANT REGISTRAR

1.7.2020


1/7/20