

Court No. - 68

Case :- PUBLIC INTEREST LITIGATION (PIL) No. - 574 of 2020

Petitioner :- In-Re Inhuman Condition At Quarantine Centres And For Providing Better Treatment To Corona Positive

Respondent :- State of U.P.

Counsel for Petitioner :- Gaurav Kumar Gaur, Rishu Mishra, S.P.S. Chauhan

Counsel for Respondent :- C.S.C., Purnendu Kumar Singh

Hon'ble Siddhartha Varma, J.

Hon'ble Ajit Kumar, J.

1. Compliance affidavit filed by Chief Medical Officer, Prayagraj, be kept on record.
2. At 11:00am the State Authorities prayed for time to come up with a road map for implementing the order of this Court dated 5.8.2020. Learned Additional Advocate General, in effect, prayed for time to show as to how the directions in paragraphs 9(i), 9(ii) and 9(iii) of the order dated 5.8.2020 had been implemented. Since he read out those directions they are being reproduced here as under:-

(i) The State Authorities to see vigorously that no two individuals in public remain within a distance of two yards from each other.

(ii) If any public place is found where people fail to maintain distance of two yards from each other then the owner of the premises, where the violation of this Rule is found, should be brought to book and the premises should be closed down.

(iii) If it is brought to the notice of the administration in the higher echelon that policemen etc. are not enforcing rules

of distancing then action should be taken against those policemen.

3. When the Court showed its displeasure that why when the rate of infection was at its peak the State was still contemplating of coming with a road map even after the passing of almost two weeks of the order, then the learned Additional Advocate General stated that he would come up with some substantial proposal after the lunch recess and, therefore, we have re-assembled after lunch.

4. After lunch, the learned Additional Advocate General has placed before the Court certain directions dated 17.8.2020 which have been issued by the State Government as well as by the Police Department. They are being reproduced here as under:-

मा0 न्यायालय के निर्देश के क्रम में कोविड-19 संक्रमण को रोकने हेतु और प्रभावी कार्ययोजना:

- 1) केन्द्र सरकार की गाइडलाईन्स एवं प्रदेश सरकार की साप्ताहिक बंदी का कड़ाई से अनुपालन सुनिश्चित कराये जाने एवं सोशल डिस्टेंसिंग / मास्क पहनने की एसओपी का अनुपालन करने के लिए जिलाधिकारी / एसएसपी को निर्देशित किया जा रहा है।
- 2) जनपदों में स्थानीय स्थिति को मद्देनजर रखते हुए नाका / चेकपोस्ट / बैरियर सार्वजनिक स्थलों पर एवं बाजारों में दुकान खोलने का समय निर्धारण करना, ऑड-ईवन स्कीम लगाकर सोशल डिस्टेंसिंग का कड़ाई से अनुपालन सुनिश्चित करने के लिए स्थानीय प्रशासन को पुनः निर्देशित किया जा रहा है।
- 3) फील्ड में तैनात सभी वरिष्ठ अधिकारियों यथा-कमिश्नर, आईजी एवं अपर पुलिस महानिदेशक को भ्रमण कर कोविड-19 की

एसओपी का अनुपालन सुनिश्चित करने के लिए निर्देशित किया जा रहा है।

4) पुलिस महानिदेशक, उ0प्र0 को सोशल डिस्टेंसिंग का अनुपालन सुनिश्चित कराने हेतु एवं प्रतिदिन पुलिस मुख्यालय स्तर पर मानिट्रिंग करके शासन को आख्या प्रेषित करने के निर्देश दिये जा रहे हैं साथ ही इसका कड़ाई से अनुपालन सुनिश्चित न करने वालों के विरुद्ध कठोर दण्डात्मक कार्यवाही के निर्देश भी दिये जा रहे हैं।

5) कोवड-19 संक्रमण को रोकने हेतु पूर्व में लगाये गये पब्लिक एट्रेस सिस्टम को और प्रभावी रूप से लागू करने हेतु निर्देश दिये जा रहे हैं ताकि लोगों में कोविड-19 के संबंध में अधिक जागरूकता हो सके। साथ ही मीडिया एवं समाचारपत्रों के माध्यम से व्यापक प्रचार-प्रसार कराया जा रहा है।

उक्त क्रम में निम्न बिन्दुओं पर पुनः कड़ाई से अनुपालन कराने की आवश्यकता प्रतीत हो रही है। जिसका विवरण निम्नवत है:-

1. मार्केट/बाजार, भीड़-भाड़ वाले इलाकों को चिन्हित कर वहां पर बैरियर लगाते हुये चेक पोस्ट स्थापित की जाये तथा आने वाले सभी व्यक्तियों की चेकिंग करते हुये सोशल डिस्टेंसिंग का पूर्णतः पालन करने हेतु उनको जागरूक किया जाये।
2. समस्त व्यवसायिक प्रतिष्ठानों एवं दुकानों को ऑड-इवेन की तर्ज पर खोले जाने की अनुमति प्रदान की जाये, जिससे सोशल डिस्टेंसिंग का प्रभावी अनुपालन सुनिश्चित किया जाये।
3. सरकारी / गैर सरकारी कार्यालयों में मात्र 50 प्रतिशत कर्मियों की उपस्थिति का अनुपालन और कड़ाई से किया जाये।
4. बाजारों/भीड़-भाड़ वाले इलाको की वीडियोग्राफी करायी जाये तथा कोविड-19 की रोकथाम हेतु जारी निर्देशों का अनुपालन न करने वाले व्यक्तियों को चिन्हित किया जाये तथा अर्थदण्ड/वैधानिक कार्यवाही सुनिश्चित की जाये।
5. पुलिस की प्रभावी एवं व्यापक गश्त मात्र मुख्य मार्गों पर सीमित न रहकर शहरों व कस्बों के अन्दर भी गलियों, मोहल्लों एवं सुदूर ग्रामों में भी की जाये। सार्वजनिक स्थानों, पार्को में व्यक्तियों को टहलने एवं एकत्रित होने से रोका जाये।
6. जनता को कोरोना संक्रमण के प्रति जागरूक करने एवं सावधानियां बरतने हेतु लाउडस्पीकर के माध्यम से जागरूक किया

जाये तथा सोशल डिस्टेंसिंग के सिद्धान्त का कड़ाई से पालन किया जाये।

उक्त निर्देशों का कड़ाई से अनुपालन कराते हुये 15 दिवस के अन्दर अनुपालन आख्या प्राप्त किया जाना उचित होगा।

5. Now what we find is that while almost 5 months have passed since the lockdown was initially imposed, guidelines and road maps are still being issued. This evidently means that these guidelines are not sufficient and that actual work now needs to be done on the spot.

6. Today, a Contempt Application has also been placed before us by two counsel of this Court, namely, Sri Ram Kaushik and Ms. Priyanka Midda. Certain photographs have been attached with the Contempt Application which are very shocking and all this definitely requires an explanation from the Police and the District Administration. These photographs show that road maps and plans are there only on paper and things are not being implemented the way they should be.

7. Today in the Court Room Sri S.K. Garg learned Advocate personally appeared. He took the risk of coming to the High Court despite the fact that he is more than 75 years of age as he was interested in the well being of the people of the country. Since he has come to the Court, we have heard him but we sincerely believe that he should not have come as he is above 75 years of age and is in the “High Risk Group”. We are informed that he did not listen to the security forces at the gate. Learned counsel should learn to abide by the Pandemic Regulations. We

request learned counsel to adhere to all Rules and Regulations. We direct the security at the High Court gates not to get cowed down by the threats of lawyers and litigants. Learned counsel who appeared had just one thing to state that in the district of Prayagraj there have been officials like Mahmood Butt and Bhoore Lal who used to go out personally to see that the plans of the Government were implemented on the spot. Today, he submits that officials do not take the trouble of going out personally on the roads to see if the road maps and the plans which have been chalked out are implemented.

8. Learned Additional Advocate General, however, stated that every possible effort was being made by the State to curb the spread of pandemic. He has submitted that officials do go out and take rounds of the city to see that physical distancing is maintained. He submitted that it is another matter that as and when officials move out people start behaving irresponsibly.

9. Learned Additional Advocate General further submitted that seven districts, namely, Lucknow, Prayagraj, Bareilly, Jhansi, Kanpur Nagar, Ballia, Varanasi and Gorakhpur which have seen a major increase in the number of Covid infection and deaths would be monitored more diligently by the State Government and the result of the efforts of the State would be communicated to the Court within a weeks' time.

10. Learned Additional Advocate General has also placed on record certain data with regard to the action which has been taken by the State against various individuals under Section 188

of the Indian Penal Code and also under the Regulation 15(3), (4) and (5) of the Pandemic Rules, 2020.

11. However, since the photographs have been filed for initiating contempt proceedings for not complying with the orders of this Court dated 5.8.2020 in letter and spirit, we think it appropriate to take an explanation from the District Magistrate and S.S.P., Prayagraj, tomorrow through Video Conferencing at 10:00am. They may also submit their written explanations.

12. Sri Apoorv Dev who appeared for the noble cause i.e. seeking a direction that mask etc. be made essential commodities has supplied a copy of the application to the learned Additional Solicitor General Sri S.P. Singh and the learned Additional Advocate General. They may look into the application and file their replies. The Registry is directed to register this letter as a Public Interest Litigation (PIL) Petition and allot a regular number to it. The Contempt Application be also registered and be given a regular number.

13. Sri S.P. Singh Additional Solicitor General who has appeared through Video Conferencing has once again stated that the machine with a higher capacity for testing which is ready for installation in Prayagraj is not being installed because there is yet no room for it. It is a matter of pity that the Central Government is unable to get a proper accommodation for a machine which would have made a great difference after its installation.

14. Further, as per the order dated 7.8.2020, affidavits which were required to be filed by the responsible officers of all the districts of the Uttar Pradesh vis-a-vis implementation of the direction of the Additional Chief Secretary dated 6.8.2020 may, instead of filing their affidavits, file proper instructions through the State machinery.

15. Still further since the order passed by us restraining pillion riding is creating inconvenience to the citizens of the State, the order dated 5.8.2020 is being modified to the effect that only two people would be allowed on two wheelers provided both have proper masks, visors and helmets. Police to strictly adhere to this direction. Also E-rickshaws and auto-rickshaws which are carrying many more passengers than their capacity should be forbidden by the Police to carry more than four passengers at a time.

16. Place this case tomorrow i.e. on 18.8.2020 at 10:00am through Video Conferencing.

17. Sri S.D. Kautilya, Advocate, for Nagar Nigam, Praygaraj, may also be informed about the date fixed in the case.

Order Date :- 17.8.2020

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(Ajit Kumar,J.)(Siddhartha Varma,J.)