

Daily Order

Judge Name	Case No/Year	Date of Order	Daily Order
CHIEF JUSTICE AND ARAVIND KUMAR	WP 6435/2020	29/09/2020	<p>Our attention is invited to the order dated 4th August 2020 by which, the order dated 16th April 2020 was extended till 30th September 2020. The material part of the order dated 16th April 2020 is in paragraph 35 which reads thus:</p> <p>“Our attention is invited to our Order dated 24th March, 2020 and in particular, the direction regarding extension of interim orders. The directions are contained in clause (i) to (iii). Clause (iv) is regarding agencies and instrumentalities of the State Government taking action of demolition and eviction. The material part of the said order read thus:</p> <p>“Only with the view to ensure that citizens are not deprived of their right to approach the Courts of law, we propose to exercise our jurisdiction under Articles 226 and 227 of the Constitution of India by issuing certain directions. The directions are required to be issued to ensure that litigants should not suffer on account of their inability to approach the Courts of law. We issue the following directions:</p> <p>(i) All interim orders passed by the Karnataka High Court, all the District Courts, Civil Courts, Family Courts, Labour Courts, Industrial Tribunals and all other Tribunals in the State over which this Court has power of superintendence, which are due to expire within a period of one month from today, will continue to operate for a period of one month from today. We, however, make it clear that those interim orders which are not of a limited duration and are to operate till further orders will remain unaffected;</p> <p>(ii) If the Criminal Courts in the State have granted bail orders or anticipatory bail for a limited period which are likely to expire in one month from today, the said orders will stand extended</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>for a period of one month from today;</p> <p>(iii) If any orders of eviction, dispossession or demolition are already passed by the High Court, District or Civil Courts, the same shall remain in abeyance for a period of one month from today;</p> <p>(iv) Considering the fact that it will be practically impossible for the citizens to approach the Courts for redressal of their grievances for a period of twenty-one days specified in the order of the Ministry of Home Affairs dated 24th March 2020, we sincerely hope that the State Government, Municipal Authorities and the agencies and instrumentalities of the State Government will be slow in taking action of demolition and eviction of persons.</p> <p>This order be published in the official website of this Court. A soft-copy of this order shall be sent to all concerned Courts and Tribunals; the learned Advocate General; the learned Additional Solicitor General of India; the learned Assistant Solicitor General of India; State Public Prosecutor and the Chairman of Karnataka State Bar Council. We request the Chairman of the Bar Council to circulate this order to all the Bar Associations in the State. ”</p> <p>2. Though the functioning of the Courts has improved during the last two months, considering the prevailing situation where the number of COVID-19 positive cases in the State are constantly increasing in a rapid speed, we direct that the interim order/orders mentioned in clauses (i) to (iii) of the order dated 24th March 2020 quoted above shall stand extended till</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>29th November 2020. Even the observations made in clause (iv) which are quoted above will continue to operate till 29th November 2020. Even the closure for the purposes of Section 4 of the Limitation Act, 1963 deserves to be extended till then. The Registry shall web-host this part of order on the website of this Court even before this order is signed by the Court.</p> <p>3. In terms of what is observed in paragraphs 3 and 4 of the order dated 22nd September, 2020, a memo has been filed by the State Government. Along with the memo, a gist of the work done by the State Level Monitoring Committee in the form of meetings held on 1st August, 2020, 21st August, 2020, 11th and 12th September 2020 has been placed on record. The reports submitted by the District Level Committees are also placed on record.</p> <p>4. An assessment of private/public COVID-19 hospitals was to be made in a format which is Annexure-3 to the memo filed by the State Government. However, we find that except in few Districts, the information collected is not in the format. Even we noticed that some of the forms are not properly filled in. Maximum number of COVID-19 positive cases are in the city of Bengaluru (Bengaluru Urban District). The action taken by the District Level Committee for Bengaluru Urban District (BBMP Level Committee) is not placed on record.</p> <p>5. It must be noted here that in terms of the number of active COVID-19 cases, the State of Karnataka is at the second place in the entire country. Moreover, as repeatedly noted by us in our earlier orders, the positive cases in the State are rising everyday. Bengaluru Urban District, perhaps, is one of the worst affected Districts in the entire country in terms of the number of COVID-19 infections. Unfortunately, it appears that there is no effort made by the Monitoring Committee appointed which is known as Bruhat Bengaluru Mahanagara Palike (BBMP) Committee to monitor the functioning of the Private COVID-19 hospitals in the city. Perhaps, maximum private COVID-19 hospitals must be in the city of Bengaluru. There is nothing placed</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>on record to show that BBMP Committee has inspected any of the private hospitals.</p> <p>6. A perusal of the reports of some of the District Committees annexed to the memo shows that barring a few exceptions, a very casual exercise appears to have been undertaken for the inspection of COVID-19 hospitals.</p> <p>7. We may note here that the object of directing regular inspection of COVID-19 hospitals in the State is not to find fault with the doctors and medical/paramedical staff who have been working relentlessly in COVID-19 hospitals for the last six months. In fact, the services rendered by all of them must be appreciated. The object is to ensure that the hospitals are best equipped so that the doctors and other staff who are relentlessly working will be able to discharge their duties in a better manner. The second reason why we have directed constant monitoring of the availability of facilities, food, etc. in COVID-19 hospitals is that once a person infected with COVID-19 is admitted to such hospitals, his contact with his family members becomes minimum. Therefore, even if such a person is suffering due to lack of amenities in COVID Hospitals, he is not in a position to make a complaint or a grievance. Therefore, the State Government must consider of providing a helpline for the benefit of such patients and their relatives who can get in touch with the concerned authorities, if the patient is not being given proper treatment or the COVID-19 hospital lacks proper facilities.</p> <p>8. We direct BBMP Level Committee to submit a detailed report about its functioning. The report shall be submitted along with all necessary documents on or before Monday, 5th October, 2020.</p> <p>9. We again reiterate that it is absolutely necessary that the State should set up a mechanism which will constantly monitor the conditions of COVID-19 hospitals in the State. If the report</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>submitted by other District Committees are available, the same shall be placed on record on or before the next date.</p> <p>10. Now, coming to the issue of availability of oxygen cylinders, by filing written submissions, the stand taken by the State Government is that medical oxygen is manufactured by Cryogenic oxygen plants and filled into cylinders. It is stated that the Cryogenic oxygen plants manufacture liquid oxygen and supply the same to the cylinder filling units and to the hospitals. It is stated that at the cylinder filling units, liquid oxygen is converted into gaseous oxygen and filled into cylinders.</p> <p>11. Though the State has claimed that the daily requirement of medical oxygen for COVID-19 patients is approximately of 235.56 metric tons per day and the actual availability of oxygen is 374 metric tons per day, the issue is of proper and equitable distribution and supply of oxygen. The State Government has relied upon the order passed by the Government of India dated 25th September 2020 by the Ministry of Chemicals and Fertilizers (Department of Pharmaceuticals). The State Government will have to now tell the Court in what manner this order regulating the price of the oxygen supplied to the hospitals is being implemented in the State of Karnataka. Moreover, merely stating that adequate supply of oxygen is available in the City of Bengaluru is not sufficient. The question is whether the hospitals in the State which are treating COVID-19 patients are receiving received adequate supply of oxygen. The State will have to place on record the steps taken to ensure implementation of the order dated 25th September 2020 passed by the Government of India. The response of the State shall be filed within a period of one week from today. We make it clear that the State will have to also point out the steps taken to ensure that adequate oxygen supply is made available to the hospitals in the rural and remote areas in the State.</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>12. Now coming to the issue of providing amenities to pourakarmikas in the State and payment of wages, the State Government in the written submissions dated 29th September, 2020 has claimed that except in the case of four Urban Local Bodies (ULBs), pourakarmikas have been paid wages. Mr.Clifton D. Rozario, the learned counsel appearing for the Union joins the issue by contending that pourakarmikas engaged through contractors are not being paid. There is a reply filed by BBMP on 29th September, 2020 in which, BBMP has accepted that in some wards, the contractors have not paid wages for the months of May and August, 2020. As far as payment to the workers engaged through their contractors is concerned, it is the duty of the nominated representative of the employer under sub-section (2) of Section 21 of the Contract Labour (Regulation and Abolition) Act, 1970 (for short, "the said Act of 1970") to certify that the amounts paid as wages are in the prescribed manner. If the amount is not paid by the contractor, it is the obligation of the principal employer to make payment of the wages to the workers. It is the duty of BBMP to ensure that the nominated representatives submit reports to BBMP regularly and punctually about the payment of wages to the workers by the contractors. The State Government must ensure that all the ULBs comply with the provisions of the said Act of 1970.</p> <p>13. BBMP in its reply dated 29th September .2020 has accepted that in a few wards, the contractors have not paid wages for May and August, 2020. BBMP must comply with its obligation under sub-section (4) of Section 21 of the said Act of 1970 and must ensure that regular wages are paid to the workers employed through the contractors. BBMP must file compliance as regards payment of wages to the pourakarmikas engaged through contractors on or before 12th October 2020.</p> <p>Order on I.A.Nos.13/2020 and 14/2020 in W.P.No.6435/2020</p> <p>14. The learned Additional Advocate General states that statement of objections has been filed to I.A.No.13/2020. The State Government to supply a copy of the same to the learned counsel appearing for the petitioner.</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>These two IAs will be considered on 6th October 2020 at 2.30 p.m.</p> <p>Order on I.A.No.15/2020 in W.P.No.6435/2020</p> <p>15. Heard the learned counsel appearing for the applicant. In this application, the relief is claimed by the applicant against Bengaluru Water Supply and Sewerage Board (for short 'BWSSB'). A grievance is made about the conditions of the sanitary workers in the application.</p> <p>As BWSSB is not a party to the main petition, we dispose of the application by granting a liberty to the applicant to file a substantive petition. If such a petition is filed, the same shall be listed along with W.P.No.6435/2020.</p> <p>Order on I.A.No.16/2020 in W.P.No.6435/2020</p> <p>16. The learned Additional Advocate General seeks time to file statement of objections. We grant time till 5th October 2020 to do so.</p> <p>Though relief cannot be granted directly against Hubli-Dharwad Municipal Corporation, if an illegality as alleged in the application is committed by the Municipal Corporation, the State can always take up the matter with the Municipal Corporation.</p> <p>This application will be considered on 6th October 2020.</p> <p>Order on I.A.No.4/2020 in W.P.No.6685/2020</p> <p>17. Our attention is invited to the observations made in the order dated 4th September 2020 as regards price control of N95 masks. The issue raised in this IA is the same. We, therefore, direct both the State and the Central Governments to file response to this IA within a period of</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>one week from today.</p> <p>I.A.No.4/2020 will be considered on 6th October 2020.</p> <p>Order in W.P.No.8671/2020</p> <p>18. Additional affidavit has been filed by the sixth respondent which is of 28th September 2020. We have perused the affidavit and in particular, paragraph 6 onwards.</p> <p>19. The learned counsel appearing for the sixth respondent states that the Committee appointed by the sixth respondent will complete the exercise within a maximum period of six weeks from today. He further states that if any amount is found payable to the workmen, the same shall be paid. We accept the aforesaid assurances.</p> <p>20. The learned counsel appearing for the petitioner submitted that there is a discrepancy in the figures of wages mentioned in paragraph 13 of the present affidavit and Annexure-R.6 to the statement of objections.</p> <p>21. We find that in paragraph 13, out of the amounts payable to the workmen, only the components of basic minimum wages and VDA have been mentioned. The learned counsel appearing for the sixth respondent states that the sixth respondent will continue to pay the other amounts which are mentioned in Annexure-R.6. The amounts of basic wages and VDA mentioned in Annexure-R.6 to the statement of objections and in paragraph 13 of the present affidavit appear to be the same.</p>

Judge Name	Case No/Year	Date of Order	Daily Order
			<p>22. As far as the fifth respondent is concerned, from the affidavit dated 22nd September 2020 and especially, in view of what is stated in paragraphs 3 to 6 thereof, Mr.Clifton submits that no further directions are required to be issued against the said respondent as compliance has been made by the said respondent.</p> <p>Order in W.P.No.10586/2020</p> <p>23. Issue notice to the respondents returnable on 13th October 2020 at 2.30 p.m. To be listed along with the connected matters.</p> <p>Shri M.N.Kumar, the learned CGC takes notice for the first respondent. The learned AGA takes notice for the second to sixth respondents. Shri V.Sreenidhi, the learned counsel takes notice for the seventh respondent. Statement of objections to be filed on or before 12th October 2020.</p> <p>Order in W.P.No.9214/2020</p> <p>24. The learned Additional Advocate General states that a copy of the relevant SOP will be supplied to the petitioner appearing in person.</p> <p>This petition will be considered on 6th October 2020 at 2.30 p.m.</p>

[Close](#)[Print](#)