

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

FRIDAY, THE 6TH DAY OF AUGUST 2021 / 15TH SRAVANA, 1943

WP(C) NO. 11316 OF 2021

PETITIONER/S:

SUO MOTU

PROCEEDINGS INITIATED BY THE HIGH COURT

RESPONDENT/S:

STATE OF KERALA

REPRESENTED BY ITS CHIEF SECRETARY, GOVERNMENT
SECRETARIAT, THIRUVANANTHAPURAM-695 001

SRI. K.GOPALAKRISHNA KURUP, ADVOCATE GENERAL,

OTHER PRESENT:

SRI. THOMAS ABRAHAM, PRESIDENT, KHCAA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR
ADMISSION ON 06.08.2021, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:

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J U D G M E N T

Dated this the 6th day of August, 2019

S. Manikumar, CJ.

Based on the recent G.O.(Rt.).No.564/2021/DMD dated 4.8.2021, Mr. K. Gopalakrishna Kurup, learned Advocate General, submitted that all orders issued by the Government from 6.5.2021 to 30.7.2021 has been superseded by the recent order dated 4.8.2021.

2. He further suggested that the interim orders, granted by this Court periodically, can be extended till reopening day (24.8.2021).

3. Whereas, Mr. Thomas Abraham, President of the High Court Advocate Association, submitted that during the vacation period, filing is permitted only for few days and regular matters will not be taken up except with the leave of the court. According to him, if the stay is vacated now, litigants and their learned counsel would find it difficult to move urgent applications on the reopening day and therefore, the interim orders passed in the instant *suo motu* Writ Petition No.11316 of 2021 be extended further. According to him, that would also lessen the burden on the Registry.

4. G.O.(Rt.).No.564/2021/DMD dated 4.8.2021 is extracted :

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"GOVERNMENT OF KERALA

Abstract

Disaster Management Department - COVID-19 containment activities - relaxation and restrictions from 5th August-2021 - Orders issued.

DISASTER MANAGEMENT (A) DEPARTMENT

G.O.(Rt)No.564/2021/DMD Dated,Thiruvananthapuram, 04/08/2021

Read:- 1 GO (Rt) No.404/2021/DMD dated 06.05.2021
2 GO (Rt) No.467/2021/DMD dated 16.05.2021
3 GO (Rt) No.479/2021/DMD dated 22.06.2021
4 GO (Rt) No.487/2021/DMD dated 29.06.2021
5 GO(Rt) No.500/2021/DMD dated 06.07.2021
6 GO(Rt) No.524/2021/DMD dated 10.07.2021
7 GO(Rt) No.532/2021/DMD dated 17.07.2021
8 GO(Rt) No.534/2021/DMD dated 20.07.2021
9 GO(Rt) No.545/2021/DMD dated 24.07.2021
10. GO(Rt) No.550/2021/DMD dated 28.07.2021
11. GO(Rt) No.559/2021/DMD dated 30.07.2021

ORDER

Targeted COVID-19 containment activities were undertaken by the State in the last few months. On 30.07.2021, Hon.Chief Minister, in his regular COVID-19 core group meeting, directed to evolve a COVID-19 containment strategy focusing public health needs and livelihood concerns. Subsequent to this, the State Health Experts' Committee met on 01.8.2021 and the undersigned took meetings with Secretaries of Government,

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Enforcement agencies and Chairman, State Health Experts' Committee on 31.07.2021 and 02.08.2021 respectively to examine the COVID-19 containment strategy. The team sent by the Ministry of Health and Family Welfare, Government of India met with the undersigned on 02.08.2021 in which containment at micro-level was emphasized by the team.

The expert opinions in the matter and the concerns regarding the effect of prolonged closure of establishments on livelihood have been considered in entirety. Accordingly, it is identified that a focused strategy based on micro-containment as well as access control to indoor spaces of public gathering is required to be implemented in the state.

Accordingly, the undersigned in his capacity as Chairman of the State Executive Committee of State Disaster Management Authority, in exercise of the powers conferred under Sec.20 (3) of the Disaster Management Act-2005, hereby issues the guidelines as given in the **Annexure** for strict implementation by the enforcing authorities with effect from 00:00 Hrs of 5 th August-2021. These guidelines are in supersession of the previous guidelines issued by the Government read as (1) to (11) above.

(By order of the Governor)

Dr V P Joy
Chief Secretary

Annexure

- i. Special intensified stringent lockdown restrictions will be enforced in the LSGIs with critical spread based on the

Weekly Infection Population Ratio (WIPR). WIPR is the total number of COVID-19 infections reported in the week multiplied by 1000 divided by total population of the panchayath or urban ward. In panchayaths/urban wards with WIPR of more than 10, special intensified stringent lockdown restrictions shall be imposed. District Disaster Management Authorities shall publish this list by the evening of every Wednesday with data from Covid19 Jagratha portal and disseminate information accordingly.

- ii. Shops, markets, banks, offices, financial institutions, factories, industrial establishments, open tourist spaces and other establishments can function from Monday to Saturday. All shops, tourism centres and other establishments should display the status of vaccination of employees and the number of customers permitted at a time. It shall be the responsibility of the owner of such establishments to avoid crowding inside and outside the shop. Enforcement agencies will conduct checks and take action to ensure the above.
- iii. All establishments in the public sector, including government offices, PSUs, companies, autonomous organizations, commissions etc. will function from Monday to Friday.
- iv. Only persons who have taken at least one dose of COVID-19 vaccine before two weeks, or who are in possession of RT-PCR negative certificate taken 72 hours before or who is in possession of COVID-19 positive results more than a month old will be allowed inside (workers/visitors) in shops, markets, banks, public and private offices, financial institutions, factories, industrial establishments, open tourist

spaces and other establishments.

- v. All persons (whether belonging to the categories mentioned in point (iv) or not) can move out of home for essential activities like vaccination, COVID19 testing, medical emergency, purchase of medicine, death of relatives, marriage of close relatives, local travel to catch long route bus/train/flight/ship, examinations etc.
- vi. To avoid crowding, all shops and establishments can function from 7 am to 9 pm. People will be allowed inside the shop only on the basis of the shopping area (1 person per 25 sq ft.) Hotels and restaurants will be allowed online delivery till 9:30 PM.
- vii. All transport vehicles (public and private) shall be permitted with strict adherence to COVID-19 protocols.
- viii. All competitive, recruitment and university examinations/sports trials shall be permitted.
- ix. There will be complete lockdown on 8 th August 2021 (Sunday) with the permissible activities ordered in GO(Rt)No.459/2021/DMD dated 07/06/2021 and GO (Rt)No.461/2021/DMD dated 10/06/2021. However, there shall be no lockdown on 15th August 2021 (Independence day).File No.DMA2/767/2020-DMD-Part(4)
- x. Children who have not been vaccinated can accompany adults in point (iv).
- xi. DDMA's shall declare containment zones and shall ensure that entry/exit is not allowed from these containment zones, except for emergencies.
- xii. Schools, Colleges, Tuition Centres, Cinema theatres, in-house dining in Hotels and restaurants etc. will not be

permitted. Malls can be permitted to open only for online delivery. Educational institutions can be opened for imparting online education only. Dining will be allowed in open areas, inside vehicles , parking lots etc. maintaining six ft. distance.

- xiii. Accommodation facilities like hotels, resorts etc will be allowed in bio-bubble model in all areas on all days.
- xiv. Public functions, social, cultural and political gatherings are not permitted. However, marriages and funerals will be allowed with participation of maximum 20 persons. Places of worship shall strictly limit the maximum number of persons to 40 with each person having a minimum of 25 sq.ft area. For lesser area, the maximum number of persons shall be reduced proportionately.
- xv. All departments shall conduct online/social media campaigns to effectively implement the restrictions.
- xvi. All departments concerned shall ensure that appropriate COVID protocol is followed in all areas. Specifically, Transport Department (Bus stops and bus depots), Fisheries Department (Fish markets, harbours and fish landing centres), LSGD (Markets and public places), Labour Department (Loading and unloading centres), Industries Department (Industrial areas and manufacturing units) etc will take coordinated action for the purpose. District Collectors shall appoint Sectoral Magistrates for strict enforcement of regulations.
- xvii. Police Department and Local Self Government Institutions concerned shall convene meetings with traders' associations of the area to ensure that crowding inside and

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outside the shops does not happen. Shops shall make necessary arrangements specifically for this purpose. Home delivery/ On-line delivery shall be encouraged.

xviii. Rapid Response Teams (RRT) shall be deployed at ward level for effective contact tracing and surveillance including monitoring of home quarantine and moving patients to Domiciliary Care Centres (DCC).”

5. Perusal of G.O.(Rt.).No.564/2021/DMD dated 4.8.2021 issued by the Government shows that all the orders issued earlier, regarding relaxation and restrictions, have been superseded. As per the current Government Order, Shops, markets, banks, offices, financial institutions, factories, industrial establishments, open tourist spaces and other establishments can function from Monday to Saturday.

6. Reading of the G.O. further shows that all establishments in the public sector, including government offices, PSUs, companies, autonomous organizations, commissions etc. would function from Monday to Friday.

7. It is also indicated that all the transport vehicles (public and private) are permitted with strict adherence to COVID-19 protocols. Further that, all competitive, recruitment and university examinations/sports trials are also permitted. Thus, all

Government/allied activities have been permitted by the Government in the recent order. Transportation has also been restored.

8. In view of the recent Government Order, there will not be any difficulty for the litigants or their respective learned counsel to approach the courts/tribunals to vindicate their rights.

9. Earlier, while initiating the *suo motu* proceedings, we took note of the difficulty of the litigants and their lawyers, and for the reasons stated, issued general direction. In the light of the present scenario, the difficulty is no more in existence. Though we are aware that there is an increase in Covid-19 cases, nevertheless that would not cause any hindrance to the litigants or their learned counsel to approach the appropriate courts/tribunal for vindication of their rights.

10. Vacation starts from 14.8.2021 and the High Court reopens on 24.8.2021. As rightly pointed out, during vacation, unless and until leave is granted to move any urgent application, other matters are not normally listed. If stay is vacated from today, litigants may have to file applications on the reopening day, for extension of any interim order passed in a particular case, before this Court/District Courts/Tribunals as the case may be. Besides, there will be other usual filing as well.

11. Having regard to the difficulties expressed, it is desirable to extend the general orders, issued in this *suo motu* writ petition upto

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27.8.2021. During the intervening period from 24.8.2021 to 27.8.2021, parties are at liberty to seek for vacating of interim order already granted, is reiterated. Liberty given to file applications for extension of any interim order, in any particular case, from 31.8.2021.

Suo motu Writ Petition stands disposed of with the above directions.

Sd/-
S. Manikumar, Chief Justice.

Sd/-
C.T. Ravikumar, Judge.

Sd/-
Shaji P. Chaly, Judge

sou.

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APPENDIX OF WP(C) 11316/2021

PETITIONER EXHIBITS

Exhibit P1 OFFICE NOTES AND ORDERS OF THE HONBLE
THE CHIEF JUSTICE HIGH COURT OF
KERALA

Exhibit P2 COPY OF MINUTES OF ADMINISTRATIVE
COMMITTEE MEETING OF THE HIGH COURT
OF KERALA HELD ON 10.5.2021