

CJ / BVNJ:
03.04.2020

W.P. No.6435/2020

ORDER

The matter is called out at 11.00 in the morning. Our attention is invited to clause (9) of the order dated 24th March, 2020 issued by the Ministry of Home Affairs, Government of India, which directs that all places of worship shall be closed for the public and no religious congregations will be permitted without any exception.

2. The learned Additional Advocate General is personally present today at the time of hearing by Video Conference. We direct the State Government to file its response in writing, setting out the measures taken for the implementation of clause (9) of the order dated 24th March, 2020, especially the direction regarding complete ban on all the religious congregations.

3. There is an application made by *People's Union for Civil Liberties* (for short, "PUCL") seeking various reliefs regarding Rural Distress. We direct the registry to register the said application as an interlocutory application in W.P. No.6435/2020. We grant time of two weeks to the applicant to

make the procedural compliances. The time of two weeks shall commence from the date on which the regular functioning of the Court commences.

4. As regards the application made by PUCL concerning Rural distress, our attention is invited to the order of the Ministry of Home Affairs dated 27th March, 2020, by which certain exceptions were added to the order dated 24th March, 2020. On a conjoint reading of the exceptions which are added to the order dated 24th March, 2020, the object of the Central Government appears to be that the agricultural and farming operations should run smoothly and that is the reason why in clause (4) of the order dated 24th March, 2020, an exception has been added permitting farming operations by the farmers and farm workers in the field. Coupled with that, by adding an exception to clause (2), the offices of Agricultural Produce Marketing Committees including MST operations are permitted to be kept open. Even *Mandis* (markets) operated by the Agricultural Produce Marketing Committee have been permitted to be kept open.

5. By adding an exception to clause (5), manufacturing and packaging units of fertilizers, pesticides and seeds are permitted to be kept open. By adding an exception to clause (6), intra and inter-state movement of vehicles for transport sowing related machines like combined harvesters and other horticultural/agricultural implements has been permitted. It is pointed out in the application that though the State Government has advised the police to allow the vehicles carrying agricultural/horticultural produce to pass through, the said advice is not being implemented.

6. If the order dated 27th March, 2020 passed by the Central Government is to be effectively implemented, the State will have to ensure the passage of farmers and farm labourers/staff members to the field, if necessary, by providing passes. Secondly, the transport of agricultural/horticultural produce from the respective fields/farms to the markets for its sale will have to be permitted. It is pointed out in the application that in the alternative, if there is any difficulty about transportation of agricultural/horticultural produce, the State must make all

possible arrangements for purchasing the produce from the doorsteps of the farmers.

7. The State Government must take all possible steps to give effect to the amendment dated 27th March, 2020 carried out to the Government Order dated 24th March, 2020 by ensuring that the farmers are allowed to perform farming operations by allowing the passage of farmers and their labourers to the respective fields, and by permitting the transport of agricultural/horticultural produce for its sale, or by arranging for the purchase of the agricultural/horticultural produce from the doorsteps of the farmers.

8. It is pointed out in the application that on 1st April, 2020, the State Government announced that there will be a direct purchase of vegetables and fruits from the farmers for distribution of the same to Horticultural Producers Co-operative Marketing and Processing Society (HOPCOMS). It is pointed out that there is no clarity on the implementation of the said announcement.

9. In view of the order dated 27th March, 2020, the State Government will have to ensure that there is a regular supply of fertilizers, pesticides, seeds, etc. to the farmers as well as the availability of agricultural implements including the facility for repairs of such agricultural implements. We seek the response of the State Government on the interlocutory application regarding Rural Distress filed by PUCL on or before 9th April, 2020.

10. It is also pointed out in the application that due to the inability of the farmers to sell their produce, they are forced to dump the produce. Paragraphs 6.1.1 and 6.1.2 highlight this aspect. We, therefore, expect the State Government to act immediately and help the community of farmers. We may add here that the smooth functioning of farming operations and smooth transport and sale of agricultural/horticultural produce will not only help the farmers, but it will also help the State in ensuring continuous supply of agricultural/horticultural produce to the citizens. So far as the application regarding Rural Distress is concerned, apart from registering the application filed by PUCL, all the annexures to the application shall be

downloaded, printed and shall be made a part of the record of the interlocutory application.

11. There is one more application received from PUCL raising an issue regarding the condition and plight of pet animals during the present lockdown. The first area of concern is about the animals in the pet shops which are ordered to be kept closed. Our attention is invited to a direction issued by the Animal Welfare Board of India working under the Department of Animal Husbandry and Dairy of the Central Government issued on 24th March, 2020 to all the Chief Secretaries of the State. Paragraph 2 of the said letter addresses the issue of a large number of pet shops being kept closed. It is pointed out that the animals stranded in the pet shops are likely to suffer and die without any food, water, etc. and therefore, a direction has been issued to the State Animal Welfare Board to evacuate the animals with the help of the *Society for Prevention of Cruelty to Animals* which is headed by District Magistrates.

12. In view of the directions issued by the Animal Welfare Board, we direct the State to ensure that the District

Magistrates and the District Administration co-ordinate with the State Animal Welfare Board and take immediate action of opening of all the pet shops across the State with a view to ascertain the condition of the animals locked in the pet shops. So long as the State Government does not permit the pet shops to be kept open, the District Magistrates and the Animal Welfare Board shall ensure that due care of such evacuated animals is taken by providing food, water, medicines, etc. The District Magistrates/District Administration can always take the help of the local police to reach the owners of the pet shops. This direction needs to be implemented by giving necessary priority, as it is pointed out that the life of several animals in the pet shops is in danger.

13. The State Government shall consider whether the pet shops should be permitted to be kept open so that food and medicines are made available to the pet animals. The State will make a statement in this regard on or before 7th April, 2020 when the next hearing is scheduled.

14. Though the State Government has sought time to comply with the directions issued on the last date and we have decided to grant time till 7th April, 2020, in the meanwhile, it will be appropriate if passes are issued to the representatives of NGOs (Non-Government Organizations) who are dealing with animal welfare to enable them to feed stray animals throughout the State. It will be appropriate if the State Animal Welfare Board and the Society for Prevention of Cruelty to Animals contact the concerned NGOs and co-ordinate with the police for facilitating the issue of passes to selected NGOs for the work of feeding stray animals. An action in this regard is also necessary to be taken at the earliest.

15. The application filed by PUCL raising the issue of stray animals and pets shall be registered as an interlocutory application and time of two weeks is granted to make all the procedural compliances from the date on which the regular functioning of the Court commences. Even the Central Government needs to address itself on the said issue and consider whether any modification is required to be made to the order dated 24th March, 2020 as amended subsequently.

16. The learned counsel appearing for PUCL states that he will supply the entire material and a copy of the aforesaid application to the standing counsel for the Union of India to enable him to take instructions. We request the Central Government to respond by 9th April, 2020 on this aspect.

17. A memo has been filed by the learned counsel appearing for PUCL enclosing therewith a copy of the Legal Services to Disaster Victims through Legal Services Authority Scheme, 2010. A copy of the Scheme is already forwarded to the Executive Chairman of the Karnataka State Legal Services Authority. The Secretary of Karnataka State Legal Services Authority is present here. We request the State Legal Services Authority to ensure that their advocate remains present at the time of the next hearing by Video Conference on 7th April, 2020, so that the Court will consider of issuing the necessary directions. The memo along with the directions is also taken on record.

18. Along with the memo, certain documents have been submitted by PUCL dealing with the issue of *Poura Karmikas*

and especially, a report titled "*SWEPT UNDER THE CARPET.*" While filing the compliance report of the earlier directions on or before 7th April, 2020, the State will deal with the contentions raised in the memo with special reference to the report which is produced along with the memo.

19. The Registry is directed to register the petition filed by Shri.Syed Suhail Ali Shuttari. We grant time of two weeks to make all procedural compliances. The period of two weeks will commence from the date on which the regular functioning of the Court commences. We have heard learned Additional Advocate General as well as the petitioner in person who is a member of the Bar, on this petition. The grievance in the petition is that during the period of lockdown, the Police are not allowing the citizens to use two wheelers or four wheelers for approaching the doctors or to enable the citizens to purchase grocery, milk, medicines, etc.

20. The learned Additional Advocate General states that if a citizen is using his two wheeler or four wheeler for seeking medical help or for purchasing the grocery, medicines and other

essential items, if he discloses to the Police that he is using two wheeler or four wheeler for that specific object, the Police are not prohibiting a citizen from using of two wheeler or four wheeler for that limited purpose. He states that if the citizens co-operate with the Police and disclose the particulars of the place where they want to visit, it will facilitate the work of Police also. He states that while issuing guidelines as per the directions issued by this Court on the earlier date, the Director General of Police will clarify this aspect. He states that the guidelines will be issued for the use of Police.

21. While we note the grievance made by the petitioner, we must also record that the citizens must also co-operate with the State Government for implementation of lockdown in its true letter and spirit and co-operate with the Government to ensure that there is no unnecessary movement of two wheelers or four wheelers. In view of the statements made by the learned Additional Advocate General, though this petition will remain pending, no directions need be issued at this stage.

22. There is an application received from PUCL raising the issue concerning migrant workers. The application be registered as Interlocutory Application in Writ Petition No.6435 of 2020. Procedural compliance be made within two weeks from the date on which regular functioning of the Court commences.

23. Learned Additional Advocate General has tendered a chart giving the details of the support provided to the stranded migrant population and other needy persons as on 2nd April, 2020. It gives district-wise details of the active relief camps and shelters, number of persons housed in relief camps and shelters, number of food camps and number of persons who are being provided with food. It also gives details about the number of workers to whom shelter and food is provided by employers/industries where they are working.

24. Broadly, we are dealing with three categories of migrant workers. The first category is of the workers who have left their respective places of employment and who are trying to reach their native places in the State or outside the State. As per

order of the Central Government dated 29th March, 2020, the migrant workers cannot be allowed to leave the State, and shelter and food will have to be provided to them. The direction is to provide shelter at the nearest place after proper screening. The second category of migrants is of persons who are staying in rented accommodation. Clause (iv) of order dated 29th March, 2020 takes care of their shelter. The third category of migrant workers who have been provided shelter by their respective employers.

25. Insofar as the second and third categories of migrant workers are concerned, the learned counsel appearing for PUCL states that the said organization has received complaints from approximately 10718 migrant workers that they have not received ration. He also adds that after the details of workers were communicated to the District administration of Mangaluru, immediate efforts were made to provide ration to many of them. To enable the State to deal with the complaints made by the said migrant workers, PUCL shall submit a comprehensive list of said 10718 migrant workers to the State along with necessary particulars to enable the State to make necessary

verification and take action. The State will respond on this issue by 09th April, 2020.

26. As regards the shelters established for migrant workers in different parts of the State, we direct the State Government to provide district wise list with all the details of the camps set up for accommodating the migrant workers to the Secretaries of the respective District Legal Services Authorities. The respective Secretaries of the District Legal Services Authorities will ensure that they or their volunteers visit few camps in different parts of the respective districts on random basis and will ascertain the condition of the said camps with reference to infrastructure and facilities provided to the migrant workers. This direction shall be communicated to the respective Secretaries of the District Legal Services Authorities by the Secretary of the Karnataka State Legal Services Authority. The report of the Secretaries of the District Legal Services Authorities shall be submitted to the Secretary of the Karnataka State Legal Services Authority, who shall compile the same and place it before the Court on the next date. The copies of the

reports be provided to the learned Additional Advocate General as well as to the learned counsel appearing for the PUCL.

27. As regards order of the Central Government dated 29th March, 2020, we have already issued directions in our last order. We may note here that in view of the order of the Hon'ble Apex Court dated 31st March, 2020, there is no restraint imposed on the respective High Courts on dealing with the issue of migrant workers.

28. An Interlocutory Application is received from PUCL for placing the additional material on record regarding the issue of food security which was dealt with on the last date. This Court has directed that the State Government must come up with a comprehensive plan. The prayer in the application is about certain entitlements which according to the PUCL must be the part of the comprehensive plan which may be filed by the State Government in terms of the order dated 30th March, 2020. There are other prayers made in this application, which will have to be dealt with on the next date while dealing with the compliance of the order dated 30th March, 2020. We direct the

Registry to register this application as an Interlocutory Application in Writ Petition No.6435 of 2020. Time of two weeks is granted for making procedural compliance from the date on which the regular Court functioning commences.

29. There is an application made by PUCL seeking directions regarding Anganawadi Centers and mid-day meals. We direct the Registry to register it as an Interlocutory Application in Writ Petition No.6435 of 2020. We grant time of two weeks to make procedural compliance from the date on which the regular functioning of the Court resumes.

30. While responding to the directions contained in the order dated 30th March, 2020 concerning Anganawadi and benefits extended by Anganawadi, the State will respond to this application. It is pointed out by one of the learned counsel that in view of the further exemption granted by the Ministry of Home Affairs, it may be possible to run the Anganawadis. The State Government will examine the said issue.

31. The Writ Petition filed by Shri Girish Bharadwaj by way of email shall be registered subject to the condition of making all

the rectifications within a period of two weeks from the date on which the normal functioning of the Court resumes.

32. There is an application filed by Smt.Geetha Misra raising the same issues. The issue is of persons who attended the religious congregation at Nizamuddin in Delhi who have entered State of Karnataka. As we are ordering registration of the petition by Shri Girish Bharadwaj, the issues raised by Smt.Geetha Misra will be considered in the same petition. The petition filed by Shri Girish Bharadwaj shall be listed on next Tuesday (7th April, 2020).

33. There cannot be any dispute that it is the duty of the State to collect the data of persons who attended the religious ceremony/function at Nizamuddin in Delhi and who may have entered the State of Karnataka. The State Government will make all endeavour to get the data from the concerned authorities of the Central Government and Delhi Government and will take immediate steps to locate those persons in the State of Karnataka, to quarantine them and to take all further

steps. The State Government shall place necessary data in this behalf on record on or before 7th April, 2020.

34. In the application filed by Smt.Geetha Misra, attention of the Court is also invited to interim guidance issued by World Health Organisation on 19th March, 2020 for quarantining of individuals. The writ petition as well as the application filed by Smt.Geetha Misra and documents produced by her shall be kept on record in the writ petition filed by Shri Girish Bharadwaj.

35. An application has been received from Ondede and Center for Study of Social Exclusion and Inclusive Policy. This application be registered as an Interlocutory Application. for intervention in Writ Petition No.6435 of 2020 and shall be posted on 07th April, 2020. Most of the issues raised in this application apart from the issue of providing cash assistance to trans-genders, can be dealt with on the next date.

36. It will be appropriate if the State Government forwards copies of the compliance reports of the directions of this Court to the members of the Bar who have attended the video

conference hearing today, so that they will be able to address the Court on the next date.

37. The State Government shall ensure that the reports are forwarded to the members of the Bar and to the Registry of this Court by 06th April, 2020.

38. There is one more application received from Shri T.N.Raghupathy, learned advocate. The issue raised is of some importance regarding uninterrupted supply of medicines to the medical stores, hospitals and clinics. This application shall also be registered as an interlocutory application in W.P. No.6435 of 2020. Time of two weeks is granted to make procedural compliance from the date on which normal functioning of the Court commences.

Let the matter be listed on **07th April, 2020** at 11.00 a.m.

**Sd/-
(ABHAY S. OKA)
CHIEF JUSTICE**

**Sd/-
(B.V.NAGARATHNA)
JUDGE**

VGH/ RK/-