

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Writ Petition (PIL) No. 27 of 2020

Suo Moto WP (PIL) Matter relates with COVID-19 Corona virus Pandemic

Versus

1. State of Chhattisgarh, through the Chief Secretary, Mantralaya, Nava Raipur, Chhattisgarh, District Raipur, Chhattisgarh.
2. Secretary, Department of Health & Family Welfare, Mantralaya, Nava Raipur, District Raipur, Chhattisgarh.
3. Director General of Police, State of Chhattisgarh, Police Headquarter, Raipur, District Raipur, Chhattisgarh.
4. The Union of India, Through the Secretary, Ministry of Health, New Delhi.
5. Drug Controller General of India, CDSCO, FDA Bhawan, New Delhi.
6. Director, National Pharmaceutical Pricing Authority, YMCA Cultural Central Building, 5th/3rd Floor, New Delhi.
7. South East Central Railway, represented by General Manager, Bilaspur, Chhattisgarh.
8. Airport Authority of India, represented by Airport Director, Raipur Airport, Chhattisgarh.
9. State Legal Services Authority, represented by the Secretary, Bilaspur, Chhattisgarh.



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30/03/2020	After registration of the Public Interest Litigation and some directions directions issued on 20.03.2020, subsequent events of emergent nature have taken place pursuant to which a Full Court resolution was passed on 23.03.2020 issuing

'Advisory' in respect of arrangements for functioning of the High Court and the Courts subordinate to it. Pursuant to the Full Court resolution, the High Court issued an order dated 23.03.2020, which reads as under:

"HIGH COURT OF CHHATTISGARH, BILASPUR

ORDER

No. 40 (Mis.)
II-14-1/2020

Bilaspur, dated 23rd March, 2020

Considering the need of the hour, to prevent and contain spreading of the COVID-19 and to have an effective fight against the disease by taking concerted movement from all segments, particularly in light of the various directions/advisories issued by the Supreme Court of India, Government of India as well as the State Government, and the representation/request made by the High Court Bar Association, State Bar Council and the Advocate General on behalf of the State Government, in continuation/ modification of the Advisory/Directions issued by this Court on 16th March, 2020, it is directed that, till 31st of March, 2020 the following arrangements shall be made for the High Court and the Courts subordinate to it:

For High Court

1. Considering the extraordinary situation, normal functioning of the Court will stand suspended during the above period. The functioning of the High Court during the said period shall be bare minimal with minimum support staff to be deputed on rotational basis, to deal with extremely urgent cases, as to be decided by the Hon'ble Chief Justice or by the Hon'ble Judge, nominated by the Chief Justice in this regard. The extreme urgency of such cases shall be substantiated by filing necessary proceedings before the Registrar (Judicial) / Additional Registrar (Judicial), as is the practice prevalent in the High Court, during holidays. There will not be any regular listing of the cases during the aforesaid period. No filing of fresh cases shall be allowed. However, the above period will not be counted for working out the period of limitation.

2. During the aforesaid period, all the other Officers/Officials of the High Court shall 'work from home' and will make themselves available as and when their services are so required by the concerned Section In-charge. The Registrar General shall call for the staff as may be required for the aforesaid skeletal functioning of the High Court. The Officers/Officials will not leave the Headquarter and will report for duty without any lapse immediately on call.

For District Courts

1. Considering the extraordinary situation, normal functioning of the Court will stand suspended during the above period. The functioning of the District Courts and Outlying Courts thereunder shall be bare minimal with minimum support staff to be deputed on rotational basis, to deal with only extremely urgent cases, as to be decided by the District & Sessions Judge concerned. No filing of fresh cases shall be allowed. However, the above period will not be counted for working out the period of limitation.



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2. There will not be any regular listing of the cases during the aforesaid period. However, as regards cases of utmost importance/urgency, the District Judge shall decide as to whether urgency exists or not and to take action as per convenience. Remands and bails of the arrested person shall be done as per holiday practice.

3. During the aforesaid period, all the Officer and Staff of the District Courts shall 'work from home' and will make themselves available as and when their services are so required by the concerned District Judge. The District Judge concerned shall call for the staff as may be required for the aforesaid skeletal functioning of the District Court. The Officers and staff will not leave the Headquarter and will report for duty without any lapse immediately on call.

For other Subordinate Courts (viz. Commercial Court, Family Courts, Industrial Court, Labour Courts etc.)

1. Considering the extraordinary situation, normal functioning of the Court will stand suspended during the above period. The functioning of the above Courts shall be bare minimal with minimum support staff to be deputed on rotational basis, to deal with only extremely urgent cases, as to be decided by the concerned Judge presiding over the Court/Principal Judge of the Family Court. No filing of fresh cases shall be allowed. However, the above period will not be counted for working out the period of limitation.

2. There will not be any regular listing of the cases during the aforesaid period. However, as regards cases of utmost importance/urgency, the concerned Judge presiding over the Court/Principal Judge of the Family Court shall decide as to whether urgency exists or not and to take action as per convenience. Remands and bails, wherever applicable, of the arrested person shall be done as per holiday practice.

3. During the aforesaid period, all the Officers and Staff of the above Courts shall 'work from home' and will make themselves available as and when their services are so required by the concerned Judge presiding over the Court/Principal Judge of the Family Court. The concerned Judge presiding over the Court/ Principal Judge of the Family Court shall call for the staff as may be required for the aforesaid skeletal functioning of the above Courts. The Officers and staff will not leave the Headquarter and will report for duty without any lapse immediately on call.

By order of Hon'ble the High Court

Sd/-

(Neelam Chand Sankhla)
Registrar General"

Thereafter, on 24.03.2020, the Ministry of Home Affairs, Government of India issued another order directing the State Governments/Union Territory Authorities to take effective measures so as to prevent the spread of COVID-19 in the country by following directions given by the National Disaster Management Authority (NDMA) in its Order No. 1-29/2020-PP (Pt.II), dated 24.03.2020.



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Pursuant to the Government of India's above order, the High Court issued another order on 26.03.2020 extending the period of suspension of the normal functioning of the High Court, District Courts and other subordinate Courts (viz. Commercial Courts, Family Courts, Industrial Courts, Labour Courts etc.) till 14.04.2020. The High Court's order dated 26.03.2020 reads as follows:

**"HIGH COURT OF CHHATTISGARH, BILASPUR
ORDER**

No. 41 (Mis.)/
II-14-1/2020

Bilaspur, dated 26th March, 2020

In the wake of public announcement made by the Hon'ble Prime Minister of the Country on 24.03.2020 imposing a complete lock-down throughout the Country, order No. 40-3/2020-DM-I(A) dated 24.03.2020 issued by the Home Secretary, Government of India, Ministry of Home Affairs, New Delhi and order no. 211/C.S./2020 dated 25.03.2020 issued by the Chief Secretary of Chhattisgarh State, the period of suspension of the normal functioning of the High Court, District Courts and other Subordinate Courts (viz. Commercial Court, Family Courts, Industrial Court, Labour Courts, etc.) of the State and arrangement for dealing with extremely urgent cases is extended till 14th April, 2020 on the similar terms and conditions mentioned in the Registry order no. 40 (Mis.)/II-14-1/2020 dated 23.03.2020.

By order of Hon'ble the High Court

Sd/-

(Neelam Chand Sankhla)
Registrar General"

In view of the lock-down in the State of Chhattisgarh and the extremely limited functioning of the Courts, routine matters have been adjourned *en bloc* by all the subordinate Courts whereas, daily cause lists are not published in the High Court, impliedly postponing hearing of the routine matters. This has created a situation where lawyers and litigants throughout the State are not in a position to approach the High Court, subordinate Courts and the Tribunals to seek extension of the interim orders/stay orders/interim bail orders. The extraordinary situation may put the litigants in grave hardships and it may also create complications and multiplicity of litigation in future. Therefore, invoking the powers conferred under



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Article 226 and 227 of the Constitution of India, it is hereby directed that all such interim orders/stay orders/interim bail orders passed by this High Court, all the Courts/Tribunals upon which the High Court exercises supervisory jurisdiction under Article 227 of the Constitution of India, which have expired or will expire on or after 16.03.2020 shall continue till 15.05.2020 or such other order as may be passed from time to time as the exigencies may require, except where any order to the contrary has been passed by the Hon'ble Supreme Court of India in any particular matter during the intervening period.

The Member Secretary, State Legal Services Authority would inform that pursuant to the Supreme Court's order dated 23.03.2020 in *Suo Motu Writ Petition (C) No. 1 of 2020*, the High Powered Committee constituted for the State of Chhattisgarh comprising of (i) the Chairman, State Legal Services Authority, (ii) Principal Secretary (Home/Prison), (iii) Director General of Prisons, to determine the class of prisoners who can be released on parole or on interim bail, has ensured release of identified prisoners. Based on the recommendation dated 26.03.2020 of the aforesaid Committee, directions have been issued for release of the identified prisoners on parole or on interim bail, as the case may be, as directed by the Supreme Court. The order of the Supreme Court dated 23.03.2020 reads as follows:

"The issue of overcrowding of prisons is a matter of serious concern particularly in the present context of the pandemic of corona virus (COVID-19)

Having regard to the provisions of Article 21 of the Constitution of India, it has become imperative to ensure that the spread of the Corona Virus within the prisons is controlled.

We direct that each State/Union Territory shall constitute a High Powered Committee comprising of (i) Chairman of the State Legal Services Committee, (ii) the Principal Secretary (Home/Prison) by whatever designation is known as, (ii) Director General of Prison(s), to determine which class of prisoners can be released on parole or an interim bail for such period as may be thought appropriate. For instance, the State/Union Territory could consider the release of prisoners who have been convicted or are undertrial for offences for which prescribed punishment is up to 7 years or less, with or without fine and



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the prisoner has been convicted for a lesser number of years than the maximum.

It is made clear that we leave it open for the High Powered Committee to determine the category of prisoners who should be released as aforesaid, depending upon the nature of offence, the number of years to which he or she has been sentenced or the severity of the offence with which he/she is charged with and is facing trial or any other relevant factor, which the Committee may consider appropriate.

The undertrial Review Committee contemplated by this Court *In Re Inhuman Conditions in 1382 Prisons*, (2016) 3 SCC 700, shall meet every week and take such decision in consultation with the concerned authority as per the said judgment.

The High Powered Committee shall take into account the directions contained in para no. 11 in *Arnesh Kumar v. State of Bihar*, (2014) 8 SCC 273."

We have noted the information supplied to us by the Member Secretary, State Legal Services Authority. The Member Secretary is directed to take steps for implementation of the above order of the Supreme Court in its entirety.

In order to ensure safety of child in conflict with law as well as child in need of care and protection, we hereby direct the State Government and Collectors of all the Districts to take effective measures for medical checkup, hygiene, sanitation, cleanliness of all juvenile homes. Supply of required quantity of mask, soap, hand-wash be also ensured. The State authorities enjoined with duties and functions under the Juvenile Justice Act, towards supervision of Child Care Institutions shall also ensure that all such institutions are taking aforementioned safety measures.

If anybody finds any urgency with regard to orders/modification, the same can be brought to the notice of the Registrar (Judicial) by pointing out the urgency through e-mail and once permission is granted, the same can be dealt with accordingly.

This order be uploaded in the official website of the High Court of Chhattisgarh and be conveyed to the Advocate General, all the Standing Counsel, Chief Secretary, Government of Chhattisgarh, Union of India, through the Assistant Solicitor General, all the Presiding Judges of the District & Sessions Courts,



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Subordinate Courts (viz. Commercial Court, Family Courts, Industrial Court, Labour Courts etc.) and the Registrars of all the Tribunals functioning in the State.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Manindra Mohan Shrivastava)
Judge

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