

IN THE HIGH COURT OF KERALA AT ERNAKULAM

MONDAY, THE 30TH DAY OF MARCH, 2020/10TH CHAITHRA, 1942

Present:

THE HONOURABLE MR. JUSTICE A.K.JAYASANKARAN NAMBIAR

THE HONOURABLE MR. JUSTICE SHAJI P.CHALY

WRIT PETITION (TMP) NO. 2/2020

PETITIONER :

The Kerala High Court Advocates' Association, represented by its Secretary,
1st Floor, High Court of Kerala Building, Ernakulam -682 031

BY ADVOCATE SRI. P. RAVINDRAN (SENIOR) ALONG WITH ADVOCATE SRI MANU GOVIND

RESPONDENTS :

1. The State of Kerala, represented by the Chief Secretary to Government of Kerala, Secretariat, Thiruvananthapuram 695 001
2. The Secretary to Government of Kerala, Department of Home, Secretariat, Thiruvananthapuram 695 001.
3. The Secretary to Government of Kerala, Department of Health, Secretariat, Thiruvananthapuram 695 001
4. The Director General of Police and State Police Chief, Police Head Quarters, Thiruvananthapuram 695001
5. The Union of India, represented by Secretary to Government of India, Department of States, Ministry of Home Affairs, New Delhi 110001.
6. The State of Karnataka, represented by the Chief Secretary, Secretariat, Vikasa Saudha, Bangalore 560001.
7. The State of Tamil Nadu, represented by the Chief Secretary, Secretariat, Chennai 600009.
8. The Union Territory of Puducherry, represented by its Lieutenant Governor, Puducherry 605013.
9. The National Disaster Management Authority, NDMA Bhawan, A-1, Safdarjung, Enclave, New Delhi - 110029 represented by its Member Secretary
10. The Kerala State Disaster Management Authority, represented by its convenor, Observatory Hills, Vikas Bhavan P.O, Thiruvananthapuram – 695033

Sri. Ranjith Thampan, Additional Advocate General for R1 to R4
Adv.Sri. Jaishankar V. Nair , CGC, for R5
Adv. Sri. S . Manu for R6

This Writ Petition having come up for admission on 30-03-2020, the Court on the same day passed the following :

A.K. JAYASANKARAN NAMBIAR, J.
&
SHAJI P. CHALY, J.

W.P.(C). (TMP) NO.2 OF 2020

Dated this the 30th day of March, 2020

ORDER

A.K. Jayasankaran Nambiar, J.

Notice before admission to the respondents. Sri. Ranjith Thampan, the learned Additional Advocate General takes notice for respondents 1 to 4, Sri. Jaishankar V. Nair, the learned Central Government Counsel takes notice for the 5th respondent, Sri, S. Manu, the learned counsel takes notice for the 6th respondent on instructions received from the Advocate General for the State of Karnataka.

2. This writ petition is in the nature of a public interest litigation, and seeks directions to the Central Government, as well as to the State Governments of Karnataka and Kerala, to take measures to ensure the safety of citizens during the period of lockdown announced by the Central and State Governments in connection with the COVID Pandemic.

3. The learned Senior Counsel, Sri. P. Ravindran, duly instructed by Sri. Manu Govind, the learned counsel appearing for the petitioner, would point out that while there are various directions sought for in the writ petition, the pressing need is for a direction to the Central Government to forthwith take measures to ensure that the blockades put up by the State of Karnataka, on the roads, especially the National Highways, cutting through the border between the States of Kerala and Karnataka, are immediately removed. It is submitted that the blockades put up

by the State of Karnataka have prevented the free movement of vehicles carrying essential commodities to the State of Kerala as also the movement of ambulances and other vehicles carrying patients from Kerala, who require emergent medical attention in neighbouring hospitals in the State of Karnataka. We are also told that the present stalemate has also resulted in the loss of lives, with patients not being able to receive prompt medical attention.

4. Sri. Ranjith Thampan, the learned Additional Advocate General, would submit that the issue of blockades has engaged the attention of the State Government and frantic efforts are being made to remove the blockades. It is submitted that the Chief Minister of the State has already requested his counterpart in the State of Karnataka to take suitable action, and a similar request has also been sent to the Prime Minister, seeking his intervention to end the stalemate.

5. Sri. Jaishankar V. Nair, the learned Central Government Counsel appearing on behalf of the Central Government would submit that guidelines have already been issued by the Central Government in the Ministry of Home Affairs, with regard to the lockdown measures to be adopted by the Central Government, State Governments and Union Territories, and that such guidelines clearly make provision for the uninterrupted movement of vehicles transporting essential supplies of food and medicine across State borders as also for the movement of vehicles carrying persons in need of medical attention. He refers in particular to the communication dated 29.03.2020 of the Home Secretary, Government of India.

6. Sri. Manu S, the learned counsel, who appears on the instructions of the Advocate General of Karnataka, seeks a day's time to respond to the averments in the writ petition.

7. On a consideration of the facts and circumstances of the case as well as the submissions made across the bar, we feel that while the request of the Advocate General of Karnataka, for a day's time to respond to the averments in the writ petition can be granted, the Central Government as well as the State Governments concerned must address the issues arising from the blockades, projected in this writ petition, without any further delay. This is more so because human lives are at stake, as evident from the cases of deaths reported before us by Sri. Ranjith Thampan, and at a time like this, when efforts are on worldwide to save humanity from the harmful effects of the COVID 19 Virus, one cannot be found resorting to measures that run counter to the said objective.

8. While we post this writ petition for further consideration tomorrow, we hope that the State Governments of Kerala and Karnataka would find an immediate solution to the present stalemate, by adverting to the guidelines issued by the Central Government.

A.K.JAYASANKARAN NAMBIAR
JUDGE

SHAJI P. CHALY
JUDGE