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HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (C) No. 1026 of 2020**

Mamta Sharma W/o - Sanjay Sharma Aged About 53 Years R/o - New Rajendra Nagar, 34/A, Bajaj Colony, Sector-1, Police Station Rajendra Nagar, District Raipur Chhattisgarh

---- Petitioner**Versus**

1. State of Chhattisgarh Through The Chief Secretary, Mantralay, Mahanadi Bhavan, Atal Nagar, Nava Raipur, Raipur Chhattisgarh
2. State of Chhattisgarh Through The Secretary, Department of Excise, Mantralay, Mahanadi Bhavan, Atal Nagar, Nava Raipur, Raipur Chhattisgarh
3. The Secretary, General Administrative Department, Mantralay, Mahanadi Bhavan, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh
4. Managing Director, Chhattisgarh State Marketing Corporation Limited (CSMCL), Excise Building Fourth Floor, Chokra Nala, Labhandi, District Raipur Chhattisgarh
5. The Secretary, Department Of Health And Family Welfare, Mantralay, Mahanadi Bhavan, Atal Nagar, Nava Raipur, District Raipur Chhattisgarh

---- Respondents**AND****Writ Petition (PIL) No. 27 of 2020**

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

----Petitioner**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.

----Respondents

For Petitioner	: Shri Rohit Sharma, Advocate.
For Respondent/State	: Shri S.C.Verma, Advocate General with Shri V.R.Tiwari, Additional Advocate General and Shri Chandresh Shrivastava, Deputy Advocate General.
For Respondent No. 4	: Shri Rajeev Shrivastava, Advocate.
For Intervenor {In WP(PIL) 27 of 2020}	: Shri Prateek Sharma, Advocate.

Hon'ble Shri Prashant Kumar Mishra, Judge,
Hon'ble Shri Goutam Bhaduri, Judge

Order on Board

Per Shri Prashant Kumar Mishra, Judge,

13.04.2020

1. This petition is preferred by one Ms. Mamta Sharma and the intervention application (IA No. 2 of 2020) is preferred by Shri Prathmesh Mishra in *suo moto* Writ Petition (PIL) No. 27 of 2020, questioning the Chhattisgarh State Marketing Corporation Limited's order dated 02.04.2020 (Annexure P/7) constituting a committee to take steps for initiating preparations to operate the liquor shops throughout the State.



2. Shri Rohit Sharma, the learned counsel for the Petitioner and Shri Prateek Sharma, the learned counsel for the Intervenor would submit that the Government of India, Ministry of Home Affairs, has not granted any relaxation allowing the State Government to operate the liquor shops during the lock-down period as notified by the National Disaster Management Authority on 24.03.2020 (Annexure P/2) and by the Government of India, Ministry of Home Affairs, on even dated vide Annexure P/3. It is submitted that as per the notification, lock-down shall remain in force in all parts of the country for a period of 21 days w.e.f 25.03.2020. Therefore, neither the State Government nor the Marketing Corporation had the authority to take steps to operate the liquor shops for the reason that no such relaxation for operation of liquor shops has been granted either by the National Disaster Management Authority or the Government of India, Ministry of Home Affairs.

3. The learned Advocate General appearing for the State and Shri Rajeev Shrivastava, the learned counsel appearing for the Respondent-Marketing Corporation would not dispute the notification issued by the National Disaster Management Authority and the Government of India, Ministry of Home Affairs. However, it is urged by them that the first order issued by the State Government prohibiting operation of liquor shops/bar in the State was issued on 31.03.2020 (Annexure R-4/7 and Annexure R-4/8) till 07.04.2020. Therefore, the Marketing Corporation started preparations on 02.04.2020 in contemplation of commencement of operations of liquor shops/bar after 07.04.2020. However, in the course of hearing, the learned Advocate General and Shri Rajeev Shrivastava, the learned counsel for the Marketing Corporation were not able to satisfy as to how the Marketing Corporation's order dated 02.04.2020 can survive after the State Government's order dated 07.04.2020 (Annexure R-4/10) whereby the State Government decided to extend ban on sale of liquor through



retail shops/bar licence till 14.04.2020 when the lock-down notification issued by the Central Government remains in force. If the Marketing Corporation's order dated 02.04.2020 was in contemplation of an order by the State Government allowing operation of liquor shops after 07.04.2020, the same having not happened, the Corporation's order dated 02.04.2020 cannot be allowed to remain intact. Therefore, it deserves to be and is hereby quashed.

4. At this stage of the hearing, Shri Rohit Sharma, the learned counsel for the Petitioner, Shri Prateek Sharma, the learned counsel for the Intervenor, Shri Satish Chandra Verma, the learned Advocate General and Shri Rajeev Shrivastava, the learned counsel for the Marketing Corporation, would submit that since the Marketing Corporation's communication dated 02.04.2020 constituting a committee for operation of the liquor shops does not survive after the State Government's subsequent order dated 07.04.2020, the petition and the intervention application {(IA No. 6 of 2020 in suo moto WP(PIL) No. 27 of 2020)} may be disposed of reserving liberty in favour of the State Government to take decision in the matter considering the proposed fresh lock-down notification to be issued by the National Disaster Management Authority or the Government of India, Ministry of Home Affairs, as the case may be.

5. In view of the above submissions made by the learned counsel appearing for all the parties, the writ petition as well as the intervention application (IA No. 2 of 2020) preferred by Shri Prathmesh Mishra in *suo moto* Writ Petition (PIL) No. 27 of 2020, are disposed of reserving liberty in favour of the State Government to take decision in the matter based on the proposed fresh lock-down notification to be issued by the National Disaster Management Authority or the Government of India, Ministry of Home Affairs, as the case may be.



6. It is made clear that since the petition is being disposed of on technical grounds, we have not expressed any opinion on the merits of the contentions raised by the Petitioner or the Respondents on their respective stand. However, depending upon the nature of the steps taken by the State Government pursuant to the fresh lock-down notification issued by the National Disaster Management Authority and the Government of India, Ministry of Home Affairs, it will remain open for the Petitioner / Intervenor to move afresh before this Court.

7. In view of the above, the order dated 02.04.2020 (Annexure P/7) is quashed. The writ petition i.e. Writ Petition (C) No. 1026 of 2020, stands disposed of. Consequently, IA No. 2 of 2020 {in WP(PIL) No. 27 of 2020} also stands disposed of.

Sd/-

(Prashant Kumar Mishra)
Judge

Sd/-

(Goutam Bhaduri)
Judge