

IN THE HIGH COURT OF KARNATAKA AT BANGALORE**WP No. 6435 of 2020 & connected matters**

BETWEEN:

Mohammed Arif Jameel

..PETITIONER

A N D:

Union of India & Ors

..RESPONDENTS**WRITTEN SUBMISSIONS FILED BY STATE OF KARNATAKA
ON APRIL 24, 2020****Padarayanapura Incident.**

1. On 10.04.2020, the area of Ward No. 135 – Padrayanapura was sealed down under order of the Commissioner, BBMP. On 19.04.2020, at around 6:00 p.m., Health Officials of the BBMP and Police personnel proceeded towards Arafatnagar of Ward No. 135 to secure and place 58 primary contacts under quarantine and transport an additional 17 persons to place them in institutional quarantine at Majestic city centre under police protection.
2. It is submitted that around 8:00 p.m., 15 more members were secured and were in the process of being transported to place them in quarantine. At about that time, a local resident by the name of Wazeer Khan, s/o Kalandar Khan, along with a group of persons arrived at the place, forming an unlawful assembly, and started protesting and obstructing the public officials from executing their work.

3. At this stage, the officials pleaded with the crowd to cooperate since the work they were executing was in the larger interest of the public. However, it is submitted that the pleas of the officials were unheeded, and the unlawful assembly started pelting stones, assaulting health officials, BBMP officials, and police personnel. The mob further ransacked sheds constructed for executing Covid-19 duties and proceeded to neighbouring places, causing further destruction of public property and endangering the lives and safety of the general public as well as the officials.
4. In order to contain the unruly mob, senior police officers and other officials immediately visited the spot and prevented the violence from further spiralling out of control.
5. It is further submitted that with regard to the above incident, 5 cases have been registered in JJ Nagar Police Station, the details of which are as follows:
 - i) Cr. No. 70/2020, JJ Nagar PS, under: (a) sections 143, 147, 148, 201, 353, 332, 323, 324, 506, 269, 271, 188, read with 149 of the IPC; (b) Section 3 & 4 of the Protection of Life During Pregnancy Act; and (c) Section 51(B) of the NDMA Act;
 - ii) Cr. No. 71/2020, JJ Nagar PS, under: (a) sections 143, 147, 148, 201, 353, 332, 323, 324, 506, 269, 271, 188, read with 149 of the IPC; (b) Section 3 & 4 of the Protection of Life During Pregnancy Act; and (c) Section 51(B) of the NDMA Act;

- iii) Cr. No. 72/2020, JJ Nagar PS, under: (a) sections 143, 147, 148, 201, 353, 332, 323, 324, 506, 269, 271, 188, read with 149 of the IPC; (b) Section 3 & 4 of the Protection of Life During Pregnancy Act; and (c) Section 51(B) of the NDMA Act;
 - iv) Cr. No. 73/2020, JJ Nagar PS, under: (a) sections 143, 147, 148, 201, 353, 332, 323, 324, 506, 269, 271, 188, read with 149 of the IPC; (b) Section 3 & 4 of the Protection of Life During Pregnancy Act; and (c) Section 51(B) of the NDMA Act; and
 - v) Cr. No. 74/2020, JJ Nagar PS, under: (a) sections 143, 147, 148, 201, 353, 332, 323, 324, 506, 269, 271, 188, read with 149 of the IPC; (b) Section 3 & 4 of the Protection of Life During Pregnancy Act; and (c) Section 51(B) of the NDMA Act.
6. It is submitted that 126 persons have been arrested by the police and produced before the concerned Magistrate, who has remanded the accused to judicial custody. 4 accused persons, that is, A3 – Kabeer, A4 – Irshad Ahmed, A5 – Alsana, and A6 – Arsha Pasha have been taken into police custody for further investigation.
7. A special team has been formed to secure the remaining accused persons, and a detailed bandobast has been put in place to prevent such incidents from repeating. Furthermore, additional officers, including strike forces have been deployed at the spot. The officers deployed are as follows: 6 ACPs, 14 police inspectors, 13 police sub-inspectors, 282 men and strike forces (5 KSRP platoons, 12 CAR platoons, and a D-SWAT striking vehicle). It is

submitted that the situation is currently under control and investigation regarding the incident is underway.

8. It is further submitted that the DG & IG of Police, Karnataka State, has issued a Circular dated 09.04.2020, a copy of which is filed herewith and marked as **Annexure R-48**, directing all unit officers of the State to strictly ensure the safety of healthcare workers who are discharging their official duties on matters relating to Covid-19.
9. In addition, all unit officers of the State are instructed to provide armed police constables for health care workers, as per their discretion, depending on the location and local circumstances. The State police is also actively collecting advance information and taking all necessary precautions to ensure the safety of healthcare workers.



Jatra in Kalaburagi District.

10. It is submitted that the Deputy Commissioner, Kalaburagi, had issued an order dated 09.04.2020, appointing Sectoral Magistrates and instructing them that no religious functions like Jatra, Uroos, etc., shall be permitted due to the ongoing Covid-19 crisis. A copy of the order is filed herewith and marked as **Annexure R-49**. It was further informed to the inhabitants of Ravoor village by the Sectoral Magistrate that there is a prohibitory order in place under section 144 of Cr.P.C., as well as specific orders prohibiting the conducting of religious functions, such as Jatras, etc. However, despite such information being made available, the Rathotsava was conducted by the Secretary

and members of the Siddalingeshwara Math in Ravoor village, Chitapur Taluk, Kalaburgi District, on 16.04.2020 at 6:00 a.m.

11. Immediately after the above information was brought to the notice of the Deputy Commissioner, on 16.04.2020 itself, he passed an order suspending the Sectoral Magistrate, Sri. Rajkumar Rathod, and also issued show cause notices to the Assistant Commissioner, Sedam, Tahsildar, Chittapur, Revenue Inspector, Chittapur, and Village Accountant, Ravoor on 17.04.2020.
12. In addition, a criminal case was registered in crime No.54/2020 in Wadi P.S., for offences punishable under sections 143, 188, 269, and 149 of IPC. 22 persons were arrested, including the Secretary of the Math. The accused were produced before the Hon'ble JMFC, Shahbad, and were released on bail. A case has been registered on the complaint of the Village Accountant, Ravoor Village, against 26 accused persons by name and 150-200 others for violation of the order of the Government vide Cr. No. 57/2020, under sections 143, 120B, 353, read with 149 of the IPC. It is further submitted that investigation is in progress, and the District Authorities have visited Ravoor Village and initiated measures as per the Covid-19 protocol to screen the people of the village. Furthermore, the Superintendent of Police, Kalaburagi, has passed an order suspending the PSI, Wadi Police Station, on 16.04.2020.
13. Accordingly, the State and the Deputy Commissioner, have, upon receiving any information regarding conducting of religious

functions, has immediately taken necessary action in the interest of the general public to deter persons from organizing and participating in any religious functions, in view of the ban ordered by the MHA, Government of India.

Domestic Violence.

14. It is submitted that the following steps have been taken by the State in order to address issues relating to domestic violence during the lockdown period.
- i) It is submitted that 18 Protection Officers, who were appointed by the State, under the Protection of Women from Domestic Violence Act, 2005, are addressing issues related to Domestic violence. In addition, 186 Child Development Project Officers are in additional charge as a Protection Officers, and at Districts, Deputy Directors have been conferred additional charge of Protection Officers. It is submitted that the abovementioned officers are working tirelessly in order to address issues of domestic violence during the lockdown period.
 - ii) It is further submitted that the Government is implementing a scheme by the name of “Santhwana” to provide counselling, legal aid, and medical aid for women who are victims of domestic violence. At present 193 “Santhwana” centres are functioning 24x7 at Taluk & District levels, and are staffed by counsellors & social workers. During the lockdown period, necessary counselling services are being provided through phone by Santhwana counsellors. It is submitted that during the lockdown

period, 315 calls relating to domestic violence have been received and attended to.

- iii) In addition, the Universalization of Women Help Line – 181, which is a Government of India scheme, is being implemented in Karnataka, in co-ordination with Health & Family Welfare Department of the State. The centralized call centre for Karnataka State Universalization of Women Help Line-181 is situated at C.V. Raman General Hospital Campus at Bengaluru, and is functioning 24x7 in collaboration with Arogya Sahayavani - 104. It is submitted that, during the lockdown period from 23.03.2020 to 21.04.2020, 1194 calls were received at the centre, out of which 162 calls are related to Domestic Violence.
- iv) It is further submitted that, based on the need of the service, counselling & legal aid facilities were provided through counsellors of Santhwana Centres.
- v) In cases where rescue services are required within Bengaluru city the same are provided through the jurisdictional police station through police help line-100, and in other cities, calls are transferred to Deputy Directors & Santhwana centres for providing necessary help.
- vi) In addition, temporary shelter arrangements are also made at Swadhar Greh, which provide institutional support for rehabilitation.
- vii) Posters of Universalization of Women Help Line-181 and Santhwana are displayed to provide awareness regarding

helplines that are functioning to help women during the lockdown period.

Farmers' Issues.

15. In the written submissions filed by the State on 16.04.2020, detailed submissions had been advanced regarding issues faced by farmers on account of the lockdown. The following submissions relating to the same issue are in addition to those made on 16.04.2020.
16. The Government of India has, vide Ministry of Home Affairs (MHA) Order no. 40-3/2020-DM-I (A) dated 15.04.2020, issued Consolidated Revised Guidelines which are to be followed up to 03.05.2020. The said order, at serial number 6, states that all agricultural and horticultural activities shall remain fully functional. It is, therefore, clear that agricultural and horticultural activities have never been curtailed during the lockdown period, and will continue to remain fully functional.
17. As per the MHA guidelines, Central and State governments have exempted transportation of all produce and inputs pertaining to agriculture and allied sectors from the purview of the lockdown.

Grapes.

18. The total area under cultivation of grapes in 2020 in Bengaluru Rural, Kolar, and Chikkaballapur districts is approximately 3815 Hectares, and the expected seasonal production is approximately 88,771 Metric tonnes. The major

varieties cultivated during this season are Bangalore Blue Grapes, Dilkush (seeded varieties), Sonaka, Sharad, and Krishna Sharad (seedless varieties).

19. In the initial days of the lockdown, it is admitted that the farmers found it difficult to market the seeded variety of grapes, namely, Bangalore Blue Grapes and Dilkush. These varieties are used mainly for juice making and processing industry. The main reason is that these grapes were marketed out of the state, namely Kerala, Orissa, Delhi, Hyderabad, etc., and since, initially, there was a closure of interstate borders, the farmers were unable to transport the fruit outside the State.

20. However, the situation was immediately remedied and totally, 600 passes were issued by the district horticulture officers of Bangalore Rural and Chikkaballapur districts in order to facilitate transportation of 18,824 Metric tonnes of grapes. The fruits were then transported to other States such as Orissa, Jammu and Kashmir, Kerala, and Delhi. In addition, meetings were conducted with the distilleries in order to ensure procurement of Bangalore Blue Grapes.

21. Bangalore HOPCOMS, through its 220 outlets and 40 mobile vending vans, is also marketing grapes procured from the farmers of Chikkaballapur and Bangalore Rural districts.

Tomatoes.

22. Tomato is grown in approximately 13,225 hectares, with the production of approximately 3,98,789 Metric tonnes during the

present season. During the initial stages of the lockdown, farmers were not able to market their produce effectively due to difficulties in logistics and transportation. Meetings were held with the traders, APMC officials, and representative from processing industries, to facilitate the marketing of Tomatoes. It is submitted that the situation has improved considerably, and APMC markets are open and transactions are increasing. Moreover, major processing industries are made operational and are using Tomato for pulping purpose also.

23. It is submitted that the Department of Horticulture has been ascertaining the ground situation at every level, and necessary intervention measures are being taken to manage the supply chain of fruits and vegetables.

Monitoring Supply Chain for fruits and vegetables.

24. The Government, in its orders No:AGRI-ACT/71/2020, dated: 30-03-2020 and 02-04-2020, has constituted committees under the chairpersonship of Additional Directors of Horticulture, for monitoring the supply chain of fruits and vegetables. These teams have been monitoring and collecting information on a day to day basis pertaining to the quantum of fruits and vegetables harvested, local consumption, sales details within the district, neighbouring districts and outside the state, and details of excess and deficit of various fruits and vegetables.

Control rooms/Helplines.

25. Two special control rooms have been set up at the Commissionerate of agriculture, wherein, officers of the Department of Horticulture and Agriculture have been receiving calls from farmers, regarding the problems being faced with regard to sale and transportation of fruits, vegetables, and flowers. It is further submitted that the State is attending to each of the problems on a proactive basis.

Individual Cases.

26. It is submitted that individual cases can have varying reasons and to highlight these cases at this point in time is not apposite. While the Government is sensitive to the needs and requirements of people throughout the State, this Hon'ble Court cannot be utilised by the Petitioners/ Applicants to produce newspaper reports of difficulties faced individually. If the Government has to justify individual cases, the time and effort required to compile such information will be enormous and may be difficult in these trying times. The Government is trying its best to protect the interests of all sections and will continue to do so. It is submitted that in individual cases, the respective applicants may be directed to send the details to the concerned officers who will then deal with each issue individually at the district level.
27. One of such cases where the information in the newspaper is apparently wrong is below.

28. Reliance is placed by the applicants on the news report of Shri Chandrakant Biradar's suicide in Aland taluk of Kalaburgi district (paragraph 4), allegedly for the reason that there was a break in the supply chain, it is submitted that the jurisdictional Assistant Director of Agriculture and Joint Director of Agriculture visited the spot immediately after learning about the suicide. They were informed that a buyer from Latur (Maharashtra) had agreed to purchase all the water melons grown in the lands of the deceased farmer at the rate of Rs.12 per kg. The first consignment of 30 tonnes of water melon was purchased by him at this rate and transported by him to Latur. However, for the next consignment, the buyer offered to purchase the fruit for only Rs.3 per kg. It was, apparently, this sudden decrease in price quoted by the buyer in Maharashtra that appears to have caused distress to the farmer. Furthermore, at around 10:50 a.m. on 15.04.2020, one of the sons of the deceased farmer was contacted on phone by the Joint Director of Agriculture, Kalaburgi, and he confirmed that transportation of water melon was agreed to be undertaken by the buyer in Latur, and not by the deceased farmer. The report of the newspaper cited as Annexure 5 of the IA is, therefore, not accurate, and the mention of the farmer not being able to transport the produce due to lockdown appears to be an incorrect extrapolation of the events.

29. The State is highlighting this to point out to this Hon'ble Court why the constant reliance placed by the applicant on news reports should be discouraged. These news reports can often be inaccurate or at the very least be an incomplete portrayal of the actual narrative. Therefore, reliance on such reports, without any supporting material whatsoever, should not be permitted in the

instant proceedings, particularly during a crucial and unprecedented time like this. The State clarifies that it is not in any way whatsoever suggesting that all media reports are false or inaccurate, but is only submitting that reliance on information emanating solely from news reports, without any supporting material, in judicial proceedings such as the instant case, should be discouraged.

30. The Respondents most humbly submit that the State is actively protecting the safety, well-being, and right to dignity of its farmers, and is trying its level best to meet all their requirements. The State has provided all the seeds, fertilizers, machinery, and other inputs required for agricultural operations, commencing from sowing to harvesting and the reaching of harvested produce to food processing industries and consumers. The State is sensitive to any and all feedback or each report of alleged hardship caused to any individual or section of the society, and is addressing them as early as possible.

Pourakarmikas.

31. After the outbreak of Covid-19, special instructions have been issued to all the Urban Local Bodies (“ULB”) to carry out sanitation related works rigorously with extreme precautions to be taken for ensuring the safety of the Pourakarmikas and other workers.
32. Special instructions have been issued to all ULBs vide letters dated 27.03.2020 to procure all necessary safety equipment like three layered masks, gumboots, hand gloves, sanitizers, etc., and

also to utilize the funds made available by the State Finance Commission and municipal funds.

33. The working hours of Pourakarmikas have been revised and are now strictly between 6:30 a.m. and 10:30 a.m. Further, ULBs have been advised to arrange thermal checking with the help of Health & Family Welfare department, and weekly medical check-ups for all the workers is going on in all the ULBs.
34. In addition, special care has been taken up by the ULBs wherever positive cases are reported, and quarantine houses are identified. Instructions have been issued vide circular dated DMA/35/SWM/2019-20 dated 30.03.2020 to deploy separate vehicles for collecting waste from quarantine households, and to ensure fresh kits every day. The workers engaged are being provided with gowns, mask, gloves, goggles, etc.
35. It is submitted that transport facility has been provided to workers staying far away from the workplace, and fresh food is made available to all the workers at the mustering centres. Drinking water and toilet facility is also being provided by the ULBs.
36. As per Section 4(a) of KTPP Act, 1999, exemption has been given to procure PPE kits, safety equipment, sanitizers, and other required chemicals vide GO: UDD 136 CSS 2020, dated 15.04.2020.
37. A team has been constituted at the ULB level, including Health Inspectors, Community Affairs Officer, Environmental Engineers,

and Chief Officer/ Commissioners to act as resource persons to sensitise Pourakarmikas and other health staff about general preparedness regarding Covid-19, including practicing social distancing, self-vigilance, protection, necessity of self-quarantine, medical care facility, etc.

38. However, it has been submitted that during surprise visits by PUCL, few ULBs have not been following the directions of the Government in true letter and spirit. Details have been obtained from the concerned ULBs, and the State's response to each issue is as under.

- i) *It is mentioned that a Pourakarmika worker, during the course of removing a carcass of a dog in Tumkur, didn't use protective equipment.*

Compliance: Tumkur City Corporation has reported that it has issued hand gloves, face mask, Gum boots, and Sanitizers to the Pourakarmikas, and that the Pourakarmikas are using necessary protective equipment during the course of their work.

- ii) *Working time in Tumkur, Pavagada, Chikkanayakana Halli, Madugiri, Gulbarga CC, for PKs is reported as 6:30 a.m. to 2:30 p.m.*

Compliance: According to the Circular issued by DMA, vide SWM/DMA/2019, dated 27.03.2020, the working time of Pourakarmikas has been revised to 6:30 a.m. to 10:30 a.m. in all the above mentioned ULBs.

- iii) *Bhagyanagar TP working time for PKs is reported as full day.*

Compliance: According to the Circular issued by DMA, vide SWM/DMA/2019 dated 27.03.2020, the working time of Pourakarmikas has been revised to 6:30 a.m, to 10:30 a.m. in Bhagyanagar ULBs.

- iv) *ESI Cards not issued and PF Details not furnished in Kolar, Mysore, Chikkaballapur, Doddaballapur, Shimoga, Tumkur, KGF, Raichur, Nanjangud, Maddur, Hubballi-Dharwad, Gadag, Chikamagalur, and Bijapur.*

Compliance: In respect of Kolar CMC, Nanjangud CMC, and Maddur TMC, ESI cards have been issued and PF amount has been remitted to the respective PF account of the worker till November 2019. In respect of Mysore CC, Shivamoga CC, Tumkur CC, Hubli-Dharwad CC, Doddaballapura CMC, Gadag CMC, and Chikamagalur CMC, ESI cards have been issued and PF amount has been remitted to the respective PF account of the worker till February 2020. In respect of K.G.F, due to technical issues, ESI cards not generated. However, PF details have been furnished. In respect of Raichur CMC, it is making direct payment since Jan-2019, ESI amount is being deducted, but still cards are not issued. PF is being deducted and in respect of all Pourakarmikas and UAN number is being generated. In respect of Vijayapura CC, ESI cards have been issued and PF amount has been remitted to the respective PF account of the worker till January 2020. Action is being taken by Chikkaballapur CMC to issue ESI cards and to pay PF amount.

- v) *Pourakarmikas are working without safety gear in Gangavathy CMC.*

Compliance: The required equipment and safety gear are provided to the Pourakarmikas as per standards.

- vi) *Pourakarmikas in Chintamani are working in cleaning of drainages without safety gears.*

Compliance: All Pourakarmikas working in CMC, Chintamani, have been provided with all safety gear such as face mask, Hand Gloves, Reflector jackets, Gum Boots/Shoes, etc., and the same are being used as protective equipments by the Pourakarmikas.

- vii) *Contract workers have not been paid wages for 3 months in Shivamoga CC.*

Compliance: Wages for all contract workers (Drivers, Loaders, Helpers, and cleaners) including pourakarmikas working under direct payment have been paid till March 2020.

- viii) *One month Payment is pending in Chikmagalur CMC.*

Compliance: Payment has been done to all PK's up to 31.03.2020

- ix) *5 months Payment has not been made to helpers and drivers (Autos) in K.G.F.*

Compliance: Helpers and drivers' payments have been made up to March 2020.

- x) *3 months payment not paid to workers in Maluru.*

Compliance: Payment has been made up to February 2020.
Action is being taken to clear the March payment.

- xi) *3 months wages are due in Bangarpet.*

Compliance: Payment has been made up to February 2020.
Action is being taken to clear the March payment.

- xii) *4 months Payment not paid to Pourakarmikas in Chikkaballapur CMC.*

Compliance: Payment has been made up to March 2020.

- xiii) *9 months Payment not paid to Powrakarmikas in Hubli Dharwad MC.*

Compliance: Payment has been made up to February 2020 by HDMC.

- xiv) *3 months wages are due in Gangavathy.*

Compliance: Payment has been made up to March-2020.

- xv) *4 months wages are due in Mulbagilu.*

Compliance: Payment has been made up to Feb-2020. Action is being taken to clear the March payment.

- xvi) *3 months wages are due in Gulbarga.*

Compliance: Workers' salaries are cleared up to January 2020. Action is being taken to clear payment for February.

- xvii) *Food not provided in Hubballi Dharwad (CC), Raichur, Shimoga, Bijapur, Nanjangud, Maddur.*

Compliance: Morning breakfast is being provided to all permanent and temporary pourakarmikas by Indira canteen in above mentioned ULBs.

- xviii) *Sanitizers, mask not provided to Pura karmikas in Surpura and Yadgiri CMC.*

Compliance: Sanitizers, masks have been provided to Pourakarmikas by Surpura and Yadgiri CMC.

- xix) *Hand Sanitizers not provided to Pura karmikas in Pavagada, Chikkanayakana Halli, Madugiri, and Gulbarga CC.*

Compliance: Hand sanitizers, and all protective equipment have been provided by the above mentioned ULBs.

- xx) *Pura Karmikas not provided with Reflector Jackets in Gulbarga CC.*

Compliance: Gulbarga CC has provided Reflector Jackets to the Pourakarmikas.

BANGALORE
DATED: 24.04.2020

Sd/-
(VIKRAM HUILGOL)
ADDL.GOV.T.ADVOCATE