

inactions of Respondent regarding the calculation of the period of home quarantine of Petitioner contrary to its own guidelines and also seeks quashing of the notice issued to the Petitioner on the grounds of violation of the principles of natural justice and the principle of audi alteram partem.

2. That the brief facts leading up to the filing of the present petitioner are as under:

a. That the Petitioner herein is aged 46 years and is currently residing at

The Petitioner is a photojournalist by profession and is a former Photo-Editor of the Associated Press, and former contributing photographer to publications such as The New York Times, The Guardian, Time, Newsweek, Le Figaro, etc.

b. That due to the worldwide COVID-19 pandemic, the Government of India announced a nation-wide lockdown on 24.03.2020 for a period of 21 days with effect from 25.03.2020.

c. Subsequently, in light of the increasing rates of the spread of COVID-19 and other aspects, the Government of India on 14.04.2020 extended the nation-wide lockdown till 03.05.2020.

d. That in the interim, the Central and State Governments have been issuing guidelines addressing various issues pertaining to the COVID-19 pandemic under the Disaster Management Act and the Epidemic Diseases Act.

- e. That the Government of India, Ministry of Health & Family Welfare, issued “Guidelines for home quarantine” wherein the scope; definition of contact; instructions for contacts being home quarantined; instructions for family members of persons being home quarantined; environmental sanitation; and duration of home quarantine were provided.

It is pertinent to note that guidelines pertaining to “duration of home quarantine” stated the following:

“Duration of home quarantine

a) The home quarantine period is for 14 days from contact with a confirmed case or earlier if a suspect case (of whom the index person is a contact) turns out negative on laboratory testing”

A copy of “Guidelines for home quarantine” issued by Government of India, Ministry of Health & Family Welfare is marked hereto as Annexure-A.

- f. Respondent notified the Delhi Epidemic Diseases, COVID – 19 Regulations, 2020 on 12.03.2020, which states that:

“5. All Hospitals (Government & Private) during screening of such cases shall record to ascertain history of travel of the person if he/she has travelled to any country or area where COVID-19 has been reported. In addition the history of coming in contact with a suspected or confirmed case of COVID-19 shall be recorded.

(i) In case the person has any such history in last 14 days and the person is asymptomatic then the person must be kept in home quarantine for 14 days from the day of exposure.

(ii) In case the person has any such history in last 14 days and the person is symptomatic as per case definition of COVID-19, person must be isolated in a hospital and will be tested for COVID-19 as per protocol.

(ii) Information of all such cases should be given to office of CMO of the respective District immediately.”

Copy of Delhi Epidemic Diseases, COVID – 19 Regulations, 2020, issued by the Respondent is marked hereto as Annexure-B.

g. 19.03.2020, the World Health Organization (WHO) issued “Considerations for quarantine of individuals in the context of containment for coronavirus disease (COVID-19) (COVID-19)” which recommends the following, amongst others:

“WHO recommends that contacts of patients with laboratory-confirmed COVID-19 be quarantined for 14 days from the last time they were exposed to the patient.”

A Copy of “Considerations for quarantine of individuals in the context of containment for coronavirus disease (COVID-19) (COVID-19)” issued by World Health Organization is marked hereto as Annexure-C

- h. That Government of National Capital Territory of Delhi, Department of Health & Family Welfare issued “Revised Guidelines of Clinical Management of COVID-19” wherein details pertaining to, *inter alia*, testing for asymptomatic cases was provided. The relevant extract of the said Guidelines dated 31.03.2020 states the following:

“Asymptomatic direct and high risk contacts of a confirmed case (should be tested once between day 5 and day 14 after contact”

Copy of Revised Guidelines of Clinical Management of COVID-19 issued by Government of National Capital Territory of Delhi, Department of Health & Family Welfare is marked hereto as Annexure-D.

- i. That as per State Government authorities, the Petitioner had allegedly come into contact with the Delivery Individual on 24.03.2020, when the Petitioner ordered a food delivery.
- j. That on 14.04.2020, the Delivery Individual tested positive for COVID-19.
- k. That on 15.04.2020 a Home Quarantine Notice was pasted on the Petitioner’s residence door for a period from 24.03.2020 to 20.04.2020. It is pertinent to note that the said period from 24.03.2020 to 20.04.2020 provided a 28 day home quarantine period.

A photograph of the home quarantine notice pasted on 15.4.2020 is annexed herewith as Annexure-E.

- l. The Petitioner on 15.04.2020 wrote an email to District Magistrate (South) seeking an explanation for reasons of imposition of home quarantine, and the Home Quarantine Notice and other aspects as detailed therein, including his difficulties in obtaining food deliveries from the gate of the society.

Petitioner's Email dated 15.04.2020 addressed to District Magistrate (South) is marked as Annexure-F.

- m. That on 15.04.2020 the Petitioner was unable to have any access to food as all deliveries were required to be taken from the gate of the Petitioner's residential society. Accordingly, all of the Petitioner's food/ grocery deliveries had to be cancelled and the Petitioner went without any evening meal on the said day.
- n. That on 16.04.2020, the Petitioner contacted Delhi Police for help. However, the said request availed no remedy for the Petitioner. Accordingly, the Petitioner went another day without access to any proper food/ meals, as all Petitioner's deliveries had to be cancelled in light of the Petitioner's residential society rules.
- o. That on 17.04.2020 Delhi Police was seen near the Petitioner's residential society in the morning hours. However, the Petitioner was unable to get in proper contact with said Police individuals, who left shortly thereafter. It is pertinent to note that the society

management was seen talking to the Police individuals before they had left.

Subsequently on 17.04.2020, Officials from South District Magistrate Office, headed by one namely, “Mr. Yogesh”, visited the Petitioner in light of the Complaint made by the Petitioner as no food was delivered on 15.04.2020 & 16.04.2020.

Meanwhile, around 2:00PM a Civil Defence Marshal was deployed to collect food from Petitioner’s residential society gate and to deliver the same to the Petitioner’s residence. The Petitioner is deeply grateful for this effort.

- p. That on 17.04.2020 another Home Quarantine Notice (hereinafter referred to as “Second Home Quarantine Notice”) was pasted on the Petitioner’s residence for a period from 14.04.2020 to 28.04.2020 (14 days from the date the Delivery Individual was tested positive for COVID-19).

A photograph of the Second Home Quarantine Notice is annexed herewith and marked as Annexure-G.

On the same day the Petitioner also sent a reminder to the District Magistrate (South) with regard to its Email sent on 15.04.2020.

A copy of Petitioner’s Reminder dated 17.04.2020 is marked hereto as Annexure-H.

- q. That on 18.04.2020 the Petitioner sent another email to District Magistrate (South) seeking an explanation for reasons, *inter alia*,

regarding the Petitioner's home quarantine and the home quarantine notices.

A copy of the Petitioner's Email dated 18.04.2020 addressed to District Magistrate (South) is marked hereto as Annexure-I.

- r. That on 20.04.2020 at around 2:25 PM unknown individuals knocked on the Petitioner's residence door and stated that they have come to test the Petitioner for COVID-19.

During the said visit, the unknown individuals began taking videos of the Petitioner. Only after the petitioner insisted on identification, one of the officials identified as Dr. Dharam, and another Mr. Manoj Bharti. Thereafter, they took the Petitioner's temperature and left. No test for COVID-19 was taken.

- s. That on 20.04.2020 a Warning Notice issued by Office of the District Magistrate (South), Government of NCT Delhi, was pasted/ served at 6:50 PM, pertaining to the Petitioner's Home Quarantine and alleged violation of norms for containment of COVID-19. It is imperative to highlight that no reasons or details of the alleged violation were provided therein, which is a gross violation of the principles of natural justice. The relevant portion of the Warning Notice dated 20.04.2020 is reproduced as follows:

“Sub: CORONAVIRUS HOME QUARANTINE – ISSUING OF WARNING FOR NOT FOLLOWING THE NORMS FOR CONTAINMENT OF COVID-19

You were directed to remain in quarantine upto 28.04.2020. It has been observed that you are not following the norms of house Quarantine effectively and posing as a potential threat to the people living around you.

It is to inform you that disobedience in following/ observing any legal order at this juncture of Corona Pandemic, as advised, may attract penalties including provisions under the National Disaster Management Act 2005, Epidemic Disaster Act 1897 and Indian Penal Code.

It is pertinent to mention here that if any violation of aforesaid direction shall be reported, then strict action shall be taken for violation of relevant provisions of National Disaster Management Act 2005, Epidemic Disaster Act 1897 and Indian Penal Code.

This is your final warning. Kindly Self Quarantine yourself for the benefit of your own health and those around you.

REMAIN AT HOME BE A HERO”

A copy of Warning Notice dated 20.04.2020 Office of the District Magistrate (South), Government of NCT Delhi is marked hereto as Annexure-J.

- t. That on 21.04.2020 the Petitioner apprised SDM (Hauz Khas) & Divisional Commissioner (Delhi) were informed of the false and frivolous Warning Notice dated 20.04.2020, which did not disclose any violation.

Accordingly, the Petitioner on 21.04.2020 sent an email to Indian Council for Medical Research.

A copy of Petitioner's email dated 21.04.2020 addressed to Indian Council for Medical Research is marked hereto as Annexure-K.

- u. That on 23.04.2020, the Petitioner received a letter by District Magistrate (South) wherein certain facts pertaining to the Petitioner's home quarantine case were disclosed. Notably, it was disclosed that the authorities has decided to quarantine contacts of the delivery individual for 14 days from the date he was diagnosed, i.e. from 14.4.2020. It is submitted that the calculation of the quarantine period ought to be from the date of last contact, which in this case is 24.03.2020/25.03.2020. However, the decision to quarantine 72 households for a period starting from diagnosis is contrary its own guidelines and contrary to law. The result of this action has been that the Petitioner's quarantine continues even 30 days after contact.

A copy of Letter issued by District Magistrate (South) to Petitioner dated 23.04.2020 is marked hereto as Annexure-L.

3. That being aggrieved with the aforementioned arbitrary action by the said authorities, which is against the principles of equity, natural justice, considerations of public interest, and reflecting non-application of mind, the Petitioner has preferred the instant Writ Petition on the following, amongst other grounds:-

GROUND

A. BECAUSE the Home Quarantine Notice pasted on the Petitioner's residence on 15.04.2020 and the Second Home Quarantine Notice pasted on the Petitioner's residence on 17.04.2020 by the Respondent are arbitrary, unreasonable and suffer from non-application of mind. That the Home Quarantine Notice wrongly and arbitrarily states that the Petitioner has been under Quarantine from 24.03.2020 till 20.04.2020. It is reiterated that the Petitioner was informed of his contact with a COVID-19 positive person and placed under quarantine only on 15.04.2020. The first Home Quarantine Notice wrongly states that the Petitioner has been under quarantine since 24.03.2020 whereas Home Quarantine was only informed and imposed on 15.04.2020.

B. BECAUSE the Home Quarantine Notice pasted on the Petitioner's residence on 15.04.2020 and the second Home Quarantine Notice pasted on the Petitioner's residence on 17.04.2020, do not clearly mention the date of contact of the Petitioner with the COVID-19 positive person and the date of Home Quarantine imposed upon the Petitioner. This information being specified is important as neighbours and members of the building society inflicted untold misery on the Petitioner, accusing him of having violated his quarantine which was imposed ostensibly on 24.3.2020. It is submitted that for the health and safety of the Petitioner and the

society, the Home Quarantine Notices should mention in clear and unambiguous terms: the date the person came in contact with the COVID – 19 positive person, the date and time the home quarantine was imposed, and the duration of the Home Quarantine imposed upon the persons. This is important to prevent stigmatization of individuals under quarantine.

C. BECAUSE the Home Quarantine Notice pasted on the Petitioner's residence on 15.04.2020 and the Second Home Quarantine Notice pasted on the Petitioner's residence on 17.04.2020, do not calculate the quarantine period in accordance with the guidelines issued by the Ministry of Health and Family Welfare, or by their own guidelines. As of the date of filing, the Petitioner has been under home quarantine for a contact that took place over 30 days ago.

D. BECAUSE, the Delhi Epidemic Diseases, COVID – 19 Regulations, 2020, notified on 12.03.2020 provides for a 14 day period of quarantine calculated from the day of exposure. The quarantine imposed by Respondent seeks to calculate the period from the date of diagnosis and not exposure.

A copy of Copy of Delhi Epidemic Diseases, COVID – 19 Regulations, 2020, issued by the Respondent is marked hereto as Annexure-K.

E. BECAUSE Home Quarantine Notice pasted on the Petitioner's residence on 15.04.2020 stated the duration of Home Quarantine period from 24.03.2020 to 20.04.2020 i.e., a duration of 28 days, when the guidelines state 14 days if the person remains asymptomatic.

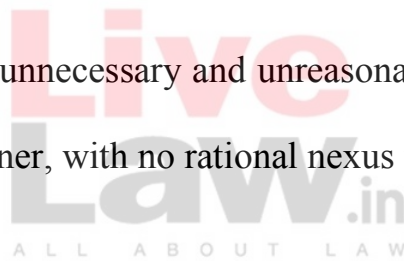
F. BECAUSE Respondent has further averred in its letter to the Petitioner dated 23.04.2020 that the aforementioned duration of 28 days was imposed on all contacts of person who tested positive for COVID-19, and whom the Petitioner was in contact with, on 14.04.2020. However, the imposition of the 28-day quarantine is contrary to the guidelines cited above. It is submitted that the Petitioner is asymptomatic and the guidelines issued by the Respondent, Ministry of Health & Family Welfare and World Health Organization clearly state the period of quarantine of 14 days. While the Petitioner is not challenging the merits of imposition of the Home Quarantine, Respondent ought to calculate the period of quarantine with application of mind and in accordance with its own guidelines. Till now, Petitioner is not aware of any regulation imposing a 28 day quarantine. Hence, the correct time period would have been 14 days, extendable only if any of Petitioners family members showed symptoms. Since Petitioner lives alone, that could not be the case.

G. BECAUSE the 14-day quarantine period of the Petitioner from the date of contact with COVID-19 positive person ended on 07.04.2020. As on date, even the 28 day period from contact has expired. The Petitioner is now serving a 14 day period from the date of diagnosis, which is not contemplated in any circular or regulation.

H. BECAUSE the Second Home Quarantine Notice pasted on the Petitioner's residence on 17.04.2020 is arbitrary, unreasonable and suffers from non-application of mind. It is reiterated that the Petitioner appears to be asymptomatic and has been adhering to the terms of home quarantine with all necessary precautions. It is submitted that on 17.04.2020, Respondent pasted another ambiguous and arbitrary notice that states that the Petitioner is under home quarantine from 14.04.2020 to 28.04.2020. While the person with whom the Petitioner had contact with tested positive for COVID – 19 on 14.04.2020, the exposure was on 24.03.2020/ 25.3.2020 and therefore on the date of diagnosis the 14 days period was actually over.

I. BECAUSE the Second Home Quarantine Notice suffers from non-application of mind and arbitrariness as it calculates the period of home quarantine of an additional 14 days from the date the person contacted tested positive on 14.04.2020 and not from on the date the Petitioner came in contact with the said person on 24.03.2020,

contrary to the aforementioned guidelines. The aforementioned guidelines by the Respondent and the Ministry of Health & Family Welfare clearly state that the period of quarantine shall be 14 days calculated from the date of the exposure with the COVID-19 infected person. However, the Respondent has, without any application of mind, calculated the duration of quarantine of the Petitioner from 14.04.2020 and not from the date of the Petitioner contact with the COVID-19 infected person on 24.03.2020, imposing an unnecessary and unreasonable restraint on the liberty of the Petitioner, with no rational nexus to control of the disease.



- J. BECAUSE the Home Quarantine Notice pasted on the Petitioner's residence on 15.04.2020 and the Second Home Quarantine Notice pasted on the Petitioner's residence on 17.04.2020 issued by the Respondent are arbitrary, unreasonable and suffer from non-application of mind as the Respondent has not followed the proper procedure as laid down in the its own guidelines and the guidelines issued by the Ministry of Health & Family Welfare. The Petitioner has suffered immense prejudice due this non-application of mind. The Petitioner has faced social ostracization, stigma and discrimination at the hands of members and residents of the Society he resides in. While the Petitioner respects and appreciates the Respondents' efforts in their attempts to control the spread of COVID-19, the Petitioner has suffered prejudice due the manner in

which Respondent has gone about implementing home quarantine regulations.

K. BECAUSE the Warning Notice dated 20.04.2020 issued by the Office of the District Magistrate (South), Govt. of NCT of Delhi is violative of the principles of Natural Justice.

L. BECAUSE the Warning Notice dated 20.04.2020 has been wrongly issued without providing a fair opportunity to the Petitioner to be heard. Thus, the said Warning Notice dated 20.04.2020 has been issued in blatant violation of the principles of natural justice and *audi alterem partem*.

M. BECAUSE the Warning Notice dated 20.04.2020 wrongly assumes and alleges that the Petitioner has violated the terms of “quarantine” without disclosing what such violation is. A finding of a violation could not have been reached without disclosing the violation to the Petitioner and providing him an opportunity to be heard.

N. BECAUSE it appears that the Respondent has relied upon an erroneous alleged complaint filed by one Mr. Arun Puri dated 18.04.2020, in coming to the finding that the Petitioner violated terms of quarantine. No copy of the said complaint was shared with the Petitioner, nor was his response sought before this finding was arrived at.

O. BECAUSE the Warning Notice dated 20.04.2020 threatens coercive and punitive action against the Petitioner under the provisions of the Disaster Management Act, 2005, Epidemic Disasters Act of 1897 and the Indian Penal Code without providing the Petitioner of a reasonable and fair opportunity to be heard thereby violating his rights under Article 14 and Article 21 of the Constitution of India.

P. BECAUSE the arbitrary period of home quarantine imposed through the Home Quarantine Notice and the Second Home Quarantine Notice are contrary to the Respondents own guidelines, and bear no rational nexus with containment of the disease, the Respondent has infringed the Petitioner's rights under Article 21 of the Constitution of India by imposing restrictions on his liberty for a period of over 30 days from the date of contact with the infected person.

Q. BECAUSE as per the "*Revised Guidelines on Clinical Management of COVID-19*" dated 31.03.2020 issued by Ministry of Health & Family Welfare, "*Asymptomatic direct and high-risk contacts of a confirmed case (should be tested once between day 5 and day 14 after contact)*". However, the Petitioner has not been tested. His efforts to avail of private testing were also in vain, as he was unable

to consult a doctor in person during his quarantine period, and labs will not test without a prescription.

R. BECAUSE, since the Petitioner came in contact with a COVID-19 confirmed case on 24.03.2020, the Respondent ought to have tested the Petitioner for COVID – 19 between the period of 29.03.2020 and 05.04.2020. Respondent has failed to test the Petitioner for COVID-19 which is essential to his right to life and health as guaranteed under Article 21 of the Constitution of India. Petitioner was unable to avail of testing either, though he attempted to.

S. BECAUSE the aforementioned acts of Respondent are arbitrary, unreasonable, and without any application of mind. Furthermore, others should not be put in a similar position and suffer the same non-application of mind.

PRAYER

In the premises and circumstances set forth hereinabove and in the interest of justice and equity, it is, therefore, most respectfully prayed that this Hon'ble Court may be graciously pleased to:

- a) Issue an appropriate writ, direction or order quashing the Home Quarantine Notice & Second Home Quarantine Notice arbitrary, as they have imposed a quarantine period of over 30 days from the date of contact on the Petitioner, which is not contemplated by law;

- b) Issue an appropriate writ, direction or order quashing Warning Notice dated 20.04.2020 issued by the District Magistrate (South), Govt. of NCT of Delhi as being violative of the principles of natural justice and the principle of *audi alteram partem*;
- c) Issue an appropriate writ, direction or order directing Respondent to formulate a policy that enables people in home quarantine to access private labs for Covid 19 testing, so that they do not need to burden the government hospitals for free tests;
- d) Issue an appropriate writ, direction or order directing Respondent to appropriately amend the format of its Home Quarantine Notice to reflect date of contact with infected person/ reason for quarantine, date and time of imposition of quarantine and date and time for end of quarantine.
- e) Issue an appropriate writ, direction or order directing Respondent to clarify for the benefit of public at large whether home quarantine measures for people having exposure to a COVID-19 positive patient is to be 14 days from exposure, or 28 days from exposure.
- f) Pass any such further order(s), as this Hon'ble Court may deem fit and proper.

PETITIONER

THROUGH

SHYEL TREHAN & DIYA KAPUR

D/827/2000& D/1553/2000

LAW CHAMBERS OF KAPUR & TREHAN

A-89 DEFENCE COLONY, GROUND FLOOR,

NEW DELHI – 110024

PHONE NO.: 9810163818

NEW DELHI

DATE: 24.04.2020



IN THE HIGH COURT OF DELHI AT NEW DELHI
EXTRAORDINARY ORIGINAL CIVIL JURISDICTION

W.P. (C) _____ OF 2020

IN THE MATTER OF:

AMIT BHARGAVA

... PETITIONER

VERSUS

THE STATE (NCT OF DELHI)

... RESPONDENT

AFFIDAVIT



1. That I am the Petitioner in the above noted case and, being well conversant with the facts and circumstances of the case, I am competent to swear the present affidavit for and on behalf of the Petitioner.
2. That the contents of the accompanying petition are true and correct to my knowledge and have been drafted under my instructions. I say that the facts stated in para 2(a) to 2(u) therein are true to my knowledge and belief and based on records maintained by the Petitioner in its normal course of work, and the contents of grounds from para A to S are based on legal advice. The same may be read as part and parcel of the present affidavit.
3. That the Annexures to the accompanying Petition are true copies of their respective originals.

DEPONENT

VERIFICATION:

Verified at New Delhi on this 24th day of April 2020 that the contents of my above affidavit are true and correct to my knowledge, no part of it is false and nothing material has been concealed therefrom.

**DEPONENT**