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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

LD-VC- 38 OF 2020

Mohan Ramkishan Joshi

.. Petitioner

Vs.

Public Health Departments & Ors.

.. Respondents

Mr. Vishal Kanade i/by Mr. Harsh Parte for Petitioner.

Ms. P. H. Kantharia, Govt. Pleader a/w Ms. Jyoti Chavan, AGP for State.

Mr. Anil C. Singh, ASG a/w Mr. Aditya Thakkar a/w Mr. D. P. Singh for UOI.

CORAM: DIPANKAR DATTA, CJ. &
S. S. SHINDE, J.

MAY 19, 2020.

P.C.:

1. Large quantity of Personal Protective Equipments, masks, gloves, sanitizers, etc. were seized by the police on receipt of complaints disclosing cognisable offence. Investigation of the FIRs, we are informed, is in progress.

2. Carrying the impression that such seized properties could be of use during these trying times of lock-down, the petitioner instituted this petition and sought for orders for proper disposal of the properties under seizure so that the same could reach the end-users, i.e., the frontline workers engaged in combating COVID-19.

3. By an order dated May 4, 2020, this Court called upon the State to file a counter affidavit indicating the quantum of stockpile seized and also as to whether any application has been made for release of the properties seized.

4. The State has filed an affidavit. Perusal thereof reveals that interim orders have been passed by the Competent Authority under the Essential Commodities Act, 1955 detailing the procedure for disposal of such seized properties but making it clear that such arrangement would be subject to the orders of the criminal court.

5. Mr. Kanade, learned Advocate appearing for the petitioner has submitted that such interim orders are under challenge in judicial proceedings, but have not been stayed; and, till such time the orders of the Competent Authority are in force, as well as subject to orders that may be passed by the criminal court having jurisdiction at an appropriate stage, the Government may be directed to implement the interim orders of the Competent Authority.

6. Ms. Kantharia, learned Govt. Pleader for the State submits that action is being taken in terms of the orders of the Competent Authority and from the documents annexed to the affidavit, it would be clear that a part of the seized properties have been handed over to the Municipal Corporation of Greater Mumbai maintaining formalities.

7. In view of the stand taken by the State in its affidavit, we do not wish to keep this petition pending. The same stands disposed of with the observation that so long the orders of the Competent Authority are not disturbed in judicial proceedings, the State shall make all possible endeavour to implement such orders and ensure that in these trying times the seized properties do reach the end-users for combating COVID-19.

8. We make it clear that since we have not been called upon to examine the correctness of the orders of the Competent Authority, we have refrained from expressing our opinion in that regard and the forum seized of the challenge thereto shall proceed to decide the proceedings before it without in any manner being influenced by this order.

9. This order will be digitally signed by the Sr. Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this order.

S. S. SHINDE, J.

CHIEF JUSTICE