

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

PUBLIC INTEREST LITIGATION NO. OF 2020

DISTRICT: PUNE

**IN THE MATTER OF ARTICLE
226 OF THE CONSTITUTION
OF INDIA 1950.**

AND

**IN THE MATTER OF THE
BOMBAY HIGH COURT PUBLIC
INTEREST LITIGATION RULES,
2010.**

AND

**A PUBLIC INTEREST
LITIGATION UNDER ARTICLE
226 OF THE CONSTITUTION OF
INDIA, 1950, SEEKING TO**

FRAME GUIDELINES FOR THE POOR, FARMERS, NEEDY, HAPLESS AND DOWNTRODDEN PERSONS, SUCH AS, LABORERS, DAILY WAGERS, PEOPLE BELOW POVERTY LINE, VENDORS, SMALL BUSINESSES, MIGRANTS ETC., INTER ALIA, FOR THE PURPOSE OF PROVIDING COMPENSATION, SUBSIDIES AND STIMULUS, AND EX GRATIA AID TO SUCH PERSONS FOR IMMEDIATE RELIEF, REHABILITATION, RESTORATION OF THEIR MEANS OF LIVELIHOOD AND SUCCOUR, AS PER THE CONSTITUTIONAL AND STATUTORY MANDATE UNDER ARTICLE 21 OF THE CONSTITUTION, THE DISASTER MANAGEMENT ACT, 2005 AND THE NATIONAL FOOD SECURITY ACT 2013;

AND

FURTHER, SEEKING A DIRECTION TO THE GOVERNMENT TO LAY DOWN A PROPER PLAN/POLICY FOR IMPOSING AND LIFTING LOCKDOWNS;

AND

FURTHER, IF SO DEEMED FIT, BESEECHING THIS HON'BLE COURT TO FRAME GUIDELINES FOR THE SUCCOUR OF SUCH PERSONS AND TO ISSUE DIRECTIONS WITH REGARD TO THE SAME.

VICKY SHIVAJI MANE
AGED: 34 YEARS

PETITIONER

SOCIAL WORKER/VEGETABLE
VENDOR/SUPPLIER AND SPECIAL
POLICE OFFICER (Volunteer)
BR NO 29 SONAI NAGAR
KESHAVNAGAR MUNDHWA
PUNE 36

VERSUS

1. STATE OF MAHARASHTRA
TH. CHIEF SECRETARY
CS OFFICE, MAIN BUILDING,
MANTRALAYA,
6TH FLOOR, MADAME CAMA ROAD,
MUMBAI 400032
EMAIL: cs@maharashtra.gov.in
2. UNION OF INDIA, THROUGH THE CHIEF
SECRETARY (HOME),
MINISTRY OF HOME AFFAIRS,
NORTH BLOCK, CENTRAL SECRETARIAT,
NEW DELHI - 110001
EMAIL: jscpg-mha@nic.in
3. MAHARASHTRA STATE DISASTER
MANAGEMENT AUTHORITY
MUNICIPAL HEAD OFFICE, ANNEX
BUILDING, BASEMENT, MAHAPALIKA
ROAD, MUMBAI 400 001.
Email: director_dm@maharashtra.gov.in
4. THE MUNICIPAL COMMISSIONER
TH. ITS COMMISSIONER
PUNE MUNICIPAL CORPORATION
SHIVAJINAGAR, PUNE
Email: pmcmco@gmail.com

RESPONDENTS

TO,

THE HONOURABLE THE CHIEF JUSTICE
AND THE COMPANION HONOURABLE
JUDGES OF HIGH COURT OF
JUDICATURE OF BOMBAY,
APPELLATE SIDE, AT BOMBAY.

THE HUMBLE PUBLIC INTEREST
LITIGATION OF THE PETITIONERS,
ABOVENAMED

MOST RESPECTFULLY SHEWETH: -

The Petitioner(s) most humbly and respectfully submit(s) as under:

I. PARTICULARS OF THE CAUSE AGAINST WHICH THE PETITION IS MADE

1. The Petitioner is constrained to approach this Hon'ble Court under Article 226 of the Constitution of India, 1950 ('Constitution,' for short) in Public Interest, *inter alia*, challenging the decision of the State to re-impose the lockdown, in the Pune district and other districts in Maharashtra *w.e.f.* 14.07.2020 to 23.07.2020 (10 days) sans guidelines, for the purpose of providing compensation, subsidies/stimulus, and *ex gratia* aid to such persons (for the farmers, poor, needy, hapless and downtrodden persons, such as, laborers, daily wagers, people below poverty line, vendors, small businesses, migrants etc), *inter alia* for immediate relief, rehabilitation and restoration of their means of livelihood, as per the constitutional and statutory mandate under Article 21 of the Constitution, the Disaster Management Act, 2005 ('2005 Act,' for short) and the National Food Security Act, 2013, ('2013 Act') and seeking a direction to the respondents to frame and lay down the same.
2. The instant petition further prays for a further direction to the State, to frame a comprehensive plan/policy for imposing lockdowns/unlocks, laying down proper conditions, indices and factors to be fulfilled and considered before the issuance of every lockdown.
3. The petition further urges and *beseeches* this Hon'ble Court, if so deemed fit, or in the alternative, in exercise of the inherent and plenary power of this Hon'ble Court under Article 226 of the Constitution, issuing such guidelines as may be necessary for the succour of the poor, needy, hapless and downtrodden persons, with due regard to the

suggestions given by the petitioner(s) and appropriate assistance of the concerned Ministries and Departments of the Government, including with regard to the continuance of the lockdown, until the normalization of the pandemic situation and the flattening of the COVID-19 curve, and the eventual relaxation and lifting thereof.

4. The *re-imposition* of the lockdown, apparently, with intention to further increase the lockdown period, thereafter, owing to "alarming" rate of spread of the virus and with an aim to break the chain of the transmission, without having proper guidelines/plan, *supra*, for the succor of the people, is onerous upon the citizens. True copy of the order dated 12.07.2020 issuing guidelines and order dated 13.07.2020 issuing revised guidelines passed by Pune Municipal Corporation imposing lockdown from 14.07.2020 to 23.07.2020 is annexed hereto and marked as **ANNEXURE P-1**

5. The Petitioner respectfully seeks to rely upon the observations of the Hon'ble Delhi High Court in ***Arjun Aggarwal Vs. Union of India and Anr W.P.(C) 3449/2020 decided on 12.06.2020***, wherein a Public Interest Litigation was filed challenging the order dated 30.05.2020 bearing No.40-3/2020-DM-I, issued by the Government of India, Ministry of Home Affairs by which the Government had issued 'Guidelines for Phased Reopening in Lockdown Phase-I. The Petitioner therein challenged the guidelines on the ground that phased reopening will result in rampant spread of COVID-19 in the country. The Hon'ble High Court while dismissing the Petition had observed as under:

*11 This Court can take judicial notice of the fact that the lockdown has resulted in loss of jobs for several lakhs of people. Scores of people were forced to walk considerable distance during the lockdown and stand in

long queues at Food distribution centers just to have two square meals a day. Several have gone hungry and were not able to get one meal. Many were left shelterless. Several lakhs of migrant labour had to walk on foot and go back to their native places. The economic situation of the country has taken a terrible hit due to the lockdown. In fact, many analysts have opined that the lockdown has caused more human suffering than COVID-19 itself. Economists have forecasted that Indian economy will shrink as a result of the steps taken to contain Corona virus pandemic. Indian economy virtually came to a standstill during nationwide lockdown. Production in the country came to a grinding halt during the lockdown period. Construction activities in the country have stopped. People have become unemployed which raises grave concerns regarding the law and order situation in the country.*

(emphasis supplied)

The copy of the judgment passed by the Hon'ble Delhi High Court in ***Arjun Aggarwal Vs. Union of India and anr*** ***W.P.(C) 3449/2020 decided on 12.06.2020*** is annexed hereto and marked as **ANNEXURE P-2.**

6. The Petitioner respectfully submits and reiterates that he is not challenging the legality and validity of the decision of the State in imposing/re-imposing the lockdown, *per se*, rather he challenges the same being *sans* guidelines, providing for compensation, subsidies and stimulus, and *ex gratia* aid to the farmers, poor, needy, hapless and downtrodden persons, for instance, laborers, daily wagers, people below poverty line, vendors, small businesses and migrants etc., *inter alia* for immediate relief, rehabilitation and restoration of their means of livelihood.
7. The Petitioner submits that the Respondents are well within their authority to impose/re-impose lockdown to curb and restrict the spread of the pandemic, the Petitioner

does not have an iota of doubt on the intentions of the State in re-imposing the lockdown to curtail the spread of Covid-19 in the State. The Petitioner respectfully submits that he stands with the State in its fight against the unprecedented pandemic.

8. The Petitioner however respectfully submits that it is bounden duty of the State whilst imposing/re-imposing the lockdown, to also protect, preserve and uphold the other precious fundamental rights of the citizens like Right to Livelihood, Right to Food, Right to Work and Right to Life and the Right to Live with Human Dignity, guaranteed by the Article 21 of the Constitution, which are bound to be affected and violated, if such decision is allowed to continue *sans* guidelines for the poor, needy and downtrodden persons, i.e., , laborers, daily wagers, people below poverty line, vendors, small businesses and migrants etc., in the name of fight against COVID-19.
9. It is submitted, that during the first phase of lockdown which was imposed from March until June the citizens faced several issues and the Government also is conscious about the lacunas and crisis faced by both citizens and Government despite such experience *re- imposing* of lockdown oblivious to the insurmountable obstacles and impediments to survival, faced by the citizens more particularly about their livelihood and daily needs, is the subject matter of the present Petition.
10. The Petitioner is aggrieved with lack of apathy shown by the State in addressing the aforesaid concerns/hardships faced by the Citizens during the first phase of the lockdown imposed from March 2020 to June 2020 and hasty steps/decision of the Government whilst re-imposing the lockdown. The State has not framed any guidelines (*or atleast the Petitioner and several citizens are not aware of*) to provide for compensation, *ex-gratia* aid, assistance, etc.

for the immediate relief and rehabilitation of the poor and downtrodden persons, *supra*, as yet, accordingly, the State needs to formulate comprehensive guidelines/plan for the relief and rehabilitation and also for imposition of lockdown, as per the constitutional and statutory mandate under Article 21 of the Constitution and the 2005 Act.

11. The Petitioner also submits that there has to be uniform policy/guidelines set by the Respondents while imposing the lockdown and the provisions must/ought to be formulated, steps should be taken, and guidelines need to be put in place, for the purpose of providing compensation, monetary assistance, subsidies and stimulus, *ex gratia* aid and payments to the poor and downtrodden persons for immediate relief, rehabilitation and restoration of their means of livelihood, owing to the fact that they have been uprooted from their employments owing to the lockdown and are left with no other means of livelihood, including making provision for giving them some alternative employment(s), so that they may adequately be able to start their lives afresh. It is submitted that under such circumstances re-imposition of lockdown is without formulation of such guidelines will amount to breaking backbone of the already crippling economy, muchless the fiscal health of the citizens, *supra*. It is submitted that the State had just began the process of "Unlock Begin Again" and the citizens were getting accustomed to the same and somehow cope up with the same, and in midst of the Lockdown for 10 days has been imposed with indication that it may be extended further.

12. The Petitioner with utmost respect, and concern submits that people are well aware of the dangers of COVID-19 and take due precautions, safeguards and adhere to physical distancing norms. As of now, people are more worried of their survival, i.e., starving to death, and are further sinking into poverty and misery, rather than of the COVID-

19. It is submitted, that the mortality rate of starvation and death is 100%, much more than the mortality rate of COVID-19, which is said to be around 4%.

13. Thus, under the circumstances, imposition of lockdown even for one single day without there being effective guidelines/measures for the purpose of providing compensation, assistance, subsidies and stimulus, and *ex gratia* aid in any form to the poor and downtrodden persons for their dignified survival and the restoration of their means of livelihood, will herald and bring forth an undue hardship, adversity, torment, injustice and suffering upon the citizens.
14. Further, a uniform and comprehensive policy needs to be laid down by the State, providing for clear conditions and indices to be fulfilled, before the imposition of any lockdown(s) or unlocking, along with, providing for prior discussion and deliberation with all concerned stakeholders from all walks of life, otherwise such imposition shall become arbitrary and hit by Art. 14 of the Constitution.
15. Many employees of the private sector have lost their livelihood due to unforeseen terminations and there have been salary deductions in both private and Government establishments, a number of small businesses are struggling to keep afloat, despite the severe losses suffered due to the situation created by the pandemic. In the midst of such extraordinary times faced by the citizens, common man and small businesses will not be able to bear the sudden imposition of the lockdown without there being a proper consultation process with the elected representatives, traders unions, labors etc since they are the ones who will face the consequences of the lockdown and no welfare schemes or provisions informed to overcome the economical crisis which have emerged due to the lockdown.

16. That many farmers are also facing hardship in cultivating their lands due to lack of supply of essentials, due to lockdown. Since last months of the lockdown they are unable to process their production, sale in the market at appropriate rates due to which they have suffered huge financial loss. The media reports suggest that there are 109 farmers suicide cases occurred between March 2020 to June 2020 i.e. within 3 months in Marathwada region of Maharashtra only.
17. It may not be out of place to mention that the migrant workers crisis which the country witnessed during the 1st phase of lockdown was remedied and put in check only after the intervention of the Hon'ble Courts, including this Hon'ble Court in their capacity and constitutional domain as *parens patriae* of the poor and downtrodden persons, and in present situation as well the if the decisions are left to the wisdom and will of the Respondents it will be too late before the justice is served to the weak, oppressed and marginalized section of the State. Hence the petitioner craves the attention and timely indulgence of this Hon'ble Court.

II. PARTICULARS OF THE PETITIONER(S)

18. The Petitioner is a social worker and has undertaken various social activities in Pune District to help needy and poor. Owing to his social work and connect with the community the Petitioner is appointed as Special Police Officer by the Mundhwa Police, Pune to volunteer and assist the Police department in maintaining law and order situation. The Petitioner acts as mediator and medium between the citizens (residents, traders, workers, labors, hawkers and vendors etc) and the police machinery and keeps watch on people who violate the lockdown order. Petitioner informs society members and other people in the jurisdiction of the Police Station about various instructions related to lockdown and provide whatever possible help,

assistance and aid in his capacity. It is submitted that only non-political persons are being appointed by the Zonal Deputy Commissioner of Police (DCP) based on the recommendation of the local police station. The Petitioner for his livelihood works as vegetable vendor and supplies vegetable/groceries to residential societies and does other odd jobs and used to earn around 10,000/- to 15,000/- pm.

19. The Petitioner being SPO received various queries and concerns from several people similarly situated like him particularly from laborers, farmers, daily wagers, and people below poverty line, vendors, small businesses and migrants in Pune after the lockdown was re-imposed the aforesaid persons also explained their ordeals during the 1st phase of the lockdown which was imposed from March to June. These people expressed their grievances and issues faced during the lockdown and lack of support from the Government. Most people expressed concerns with respect to their livelihood and narrated ordeal of being felt as beggars while seeking help from anybody to manage ends meet. Several people working as household workers, laborers etc expressed that they are without work and their salaries are not paid by their employers owing to financial issues. The Petitioner when enquired with the traders they expressed similar concerns and hardships. Most of them complained about no support or aid from the Government or the authority.
20. The Petitioner is not affiliated to any political party nor has he has any personal benefit neither is this Petition motivated. This petition is filed in larger public interest.

III. DECLARATION AND UNDERSTANDING OF THE PETITIONER

21. That the present petition is being filed by way of Public Interest Litigation and the petitioner does not have any

personal interest in the matter except interest of the entire populace of the State.

22. That the entire cost of litigation is borne and paid by the Counsels/Advocates, herein. The Counsels/Advocates representing the Petitioner are doing so *pro bono* and in the interest of the Society. No fee or charges are being billed by the Counsels/Advocates to the Petitioner and ancillary expenses are borne by the Petitioner.
23. The source of income of the Petitioner is as and by way of selling vegetables and supplies vegetable/groceries to residential societies and other odd jobs earn/earned around 10,000/- to 15,000/- pm. The personal details and the identifications of the Petitioner are PAN: ASFPM5182Q, Aadhar No: 256994902708, and Email: Vickey.yashay@gmail.com.
24. That to the best of the Petitioner's knowledge and research, the issues raised in this Petition have not been dealt with or decided by this Hon'ble Court and neither a similar or identical Petition was filed by him earlier.
25. That the Petitioner understands that in the course of hearing this Petition, the Hon'ble Court may require any security to be furnished towards costs or any other charges and the Petitioner shall comply with such requirements.

FACTS IN BRIEF, CONSTITUTING THE CAUSE:

- i. Due to the global break out of the pandemic of COVID 19, also called the novel coronavirus, the normalcy in the entire world is affected. Social distancing, being the only immediate manner of prevention of the spread of the pandemic, is widely prescribed and practiced. Under these circumstances, in order to prevent the spread of the disease, the entire country has/was been kept in

lockdown, and the citizen have been mandatorily required to stay indoors. This has resulted in a sudden halt to business and commercial activities, and while at the time of the filing of the present petition, some relaxations have been permitted by the State and Central Government, the threat of the pandemic still prevails, and the state and the country are yet to return to normalcy.

- ii. Since there was a complete lockdown in the country, which is unprecedented, the Central Government issued guidelines as well as notifications to deal with the catastrophic situation. The Central Government has issued directions under the Disaster Management Act directing the employers/industries to make payment of wages to the workers even if the industries were shut and not working or engaged in manufacturing activities due to the lock down. It is submitted that despite such categorical directions there are several private establishments which have proceeded to terminate several lakhs of employees working in all sectors and also in several cases either their salaries have not been paid or there is massive deduction in salaries of the employees. Several such cases have been filed before this Hon'ble Court and also before the Hon'ble Apex Court which are pending considerations as reported in various news reports. It is submitted that, the sizeable chunk of population are compelled to be under extreme

financial stress due to the present circumstances and any further liability would be an unbearable burden on the already crippled financial state of the middle and lower class citizens in the country.

- iii. The Ministry of Home Affairs 30.05.2020 declared the guidelines for phased re-opening of all activities outside containment zones from 8 June while giving states more freedom to decide what to allow and what to prohibit. The Respondent State of Maharashtra extended the lockdown in the State until 30.06.2020 and issued guidelines for phase-wise opening and easing of restrictions.
- iv. On 29.06.2020 the Respondent (State) issued order extending lockdown in the state till July 31 however with further guidelines for phase-wise opening and easing of restrictions.
- v. On 06.07.2020 the on Monday issued an order interalia permitting the hotels in the state can open outside the containment zones from July 8.
- vi. When things stood thus, on 10.07.2020 Pune district administration announced a 10-day lockdown in urban and peri-urban areas between July 14 and July 23 owing to "alarming" rate of spread of the virus and with an aim to break the chain of the transmission. The residents will get three days (until Monday mid-night) to

buy essentials. The lockdown will be imposed in two phases:

Phase 1: From July 13 to July 18. During this phase, only medical shops, dairies and hospitals will be allowed to remain open in the city. Newspaper deliveries will be allowed.

Phase 2: From July 19 to July 23. In this phase, apart from the shops and services that were opened in the first phase, all essential services related shops will be allowed to remain open

- vii. As per Pune Divisional Commissioner first five days of the lockdown will be stringent with exemption only for milk, medicine and operation of clinics and hospitals. For the next five days, essential services such as sale and supply of vegetables, groceries will be allowed in addition to those allowed earlier.

True copy of the new report dated 10.07.2020 published in "*The Quint*" imposing lockdown is annexed hereto and marked as **ANNEXURE P-3**

- viii. It is submitted that at present, Pune has a total of 35,000 cases. The overall active cases in the district stand at 13,132 while 21,411 patients have been sent home after treatment. A total of 985 infected persons from the district have lost their lives so far.
- ix. It is submitted that the traders in the City have raised concerns/grievances over the re-imposition of the lockdown and since it will cause more hardship for the working-class and poor persons.

- x. It is submitted that without there being simultaneous provision for food and other essentials commodities like ration kits and cash transfers and without means of livelihood, to poor people and farmers will die of starvation. It is submitted that the even the household workers/maids/daily wagers have suffered a lot since they have not been paid salaries and are without work since April and further imposition of lockdown will lead them to further miseries, suffering, deprivation and hardships .
- xi. It is submitted that there are several institutions including this Hon'ble Court, and various other establishments which have not resumed its normal functioning. Many employees of the private sector have lost their livelihood due to unforeseen terminations and there have been salary deductions by the employers. A number of small businesses are struggling to keep afloat, despite the severe losses suffered due to the situation created by the pandemic and consequential lockdown.
- xii. It will not be out of place to mention that there have been several deaths/suicides reported due to economic crisis, wherein the citizen could not tolerate the burden of expenses during the lockdown due to loss of income and had to end their lives. Further, as per the reports published in several print and electronic media which

relies on the data with the Maharashtra government shows that around 1 million migrant labourers had left the State in April and May and around 300,000 have returned so far since Unlock 1.0 began on June 1. It is submitted that these migrant labours had left the State since they lost jobs and had no food to survive which resulted in the migrant crisis which was remedied after the interventions of High Courts and Hon'ble Apex Court and in such circumstances if the lockdown is imposed again similar situation will erupt which will cause further excessive stress on the State as well as the citizens including the migrant labours who have returned after the Unlock. True copy of the article published in Indian Express on 17.06.2020 reporting death due to suicide and the report published in India Today on 11.07.2020 is annexed hereto and marked as **ANNEXURE P-4.**

- xiii. It is submitted that due to this sudden and hasty declaration of the lockdown there are psychological impact/effect on the citizens more particularly those sections of society who belong to lower middle class, middle class, traders etc apart from the Economical impact.
- xiv. It is respectfully submitted that the sudden and hasty declaration of lockdown and direction to stock the essential items creates a fear amongst the citizens.

Petitioner submits that after declaration of the lockdown citizens started coming on roads for panic buying and the norms of social distancing were gone for toss. The longer queues outside the grocery shops, vegetable vendors and other essential items will certainly in no manner assist the Government in curbing the COVID-19 cases, but will infact amount to community transmission which will only result in raising the number of cases due to transmissions. Hence it is most respectfully submitted that there needs to be proper and effective guidelines and policy whilst imposing the lockdown. Further, there is always an ambiguity as to how long will this lockdown exist. The citizens are again panicked since the First lockdown which was initially declared only for 21 days went on for over 3 months, hence without there is been proper time frame of lockdown made known to the citizens imposing of lockdown will clearly amount to physiological, financial and emotional harassment of the Citizens by the State. There is no respite of any nature even given by the State, even the electricity tariffs are increased from 01.04.2020 when entire nation was under strict lockdown. Electricity bills in June were skyrocketed which are defended by the State saying due to lockdown people were-at home and consumption was more, which logic is bereft of sound reason.

- xv. Most of the small and big business are run by securing loans from financial institutions, due to the imposition of lockdown there is no business and there is no respite in paying the monthly installments. The Government or any financial institute has not announced any relief in loan repayment as envisaged in section 13 of the 2005 Act.

13. Relief in loan repayment, etc.—

The National Authority may, in cases of disasters of severe magnitude, recommend relief in repayment of loans or for grant of fresh loans to the persons affected by disaster on such concessional terms as may be appropriate.

- xvi. The Petitioner submits that the Hon'ble High Court of Delhi has rightly observed that people die of starvation than of Covid-19. However, it will not be out of place to mention that citizens would prefer dying of corona but starving and dying daily. To add to it further, it is submitted that starvation and misery has a mortality of 100%, while, the mortality rate of COVID-19 is stated to be only around 4%.
- xvii. It is submitted that the stop the infection however may slow down the spread of the transmission which will however have impact on the livelihood of poor people, which will only aggravate the problem.
- Farmer will be affected as their commodities will be unsold.

- Workers/daily wagers/laborers/household workers/maids will not be paid wagers.
- Strict lockdown may result in losses such traders whose perishable products which are sent to various parts of the city will be halted.
- Black marketing of products, commodities is being sold at three times the rate.

xviii. It is submitted that the police machinery is not well trained to tackle the COVID-19 situation and reports have emerged that various police officials on COVID-19 duty are infected and several have died so is the case with the Doctors and healthcare workers. It is submitted that several hospitals are charging exorbitant charges for treatment of COVID-19 of which there is no cure, despite such the treatment charges are in tune of lakhs which a common man will not be able to afford and the citizens are in panic state because of this as well. There are no beds in Government hospitals and infact these hospitals do not even communicate with the families properly which creates more panic lockdown although may give respite to the augmenting COVID care centers to provide better care in making contact tracing more effective. That there has been a backlog of testing samples and contact tracing, which, according to standards, should be in the ratio 1:20. In Pune, it is somewhere in the range of 1:6. It may not be incorrect to State that the unprecedented COVID-19 has unveiled two dark realities of the Country.

a. It's poor health care system.

b. It's ability to tackle outbreak of pandemic and consequences or effects of lockdown under prevailing or unprecedented situation.

- xix. The Petitioner and others similarly situated like him have constant fear and are under tremendous pressure as to what will be their fate if they are infected with virus, whether will be able to afford the treatment, whether will they even get the treatment. There is uncertainty and ambiguity, although Government has been passing various directions to the administration however in execution things are different.
- xx. That *re imposition* of lockdown may not be and is not entirely due to the failure of Government to stop the spread of virus but the citizens are equally responsible for not following the guidelines. However, citizens are compelled to go out to earn their livelihood and to survive and in this battle of survival they are leading to risks.
- xxi. The order dated 12.07.2020 and 13.07.2020 passed by the PMC does not provide for any relief, aid or assistance to the citizens specially poor, farmers, daily wage earners, labourers, downtrodden people. The order only sets the guidelines on restrictions on movement imposed during the lockdown and no effective measures or guidelines providing aid to the needy as enumerated in 2005 Act.

- xxii. It is submitted that unless steps are taken to provide for compensation, monetary assistance, fiscal stimulus/subsidies, *ex-gratia* payments, for immediate relief, rehabilitation and succor of such persons, as per the constitutional and statutory mandate under Article 21 of the Constitution and the 2005 Act, who have mercilessly been extirpated from their livelihoods, owing to the unplanned and mismanaged lockdown and unsympathetic policies of the Government and the blatant bypassing and sidestepping of the provisions of the 2005 Act, they would have no option, but be forced to take to a life of crime, delinquency and immorality, as to avoid starvation, beggary and certain death, and the same shall greatly affect, prejudice, contravene and trample upon the Right to Life and the Right to Live with Basic Human Dignity, as guaranteed by the Article 21 of the Constitution of India, 1950.
- xxiii. It is the duty of the State Authority (the National Disaster Management Authority (NDMA), of which the Prime Minister is the Chairperson *ex-officio*) to formulate guidelines for the purpose of disaster management and ensuring timely and effective response to disaster, and guidelines to be followed by the State Authorities and different Ministries and Departments of the Government of India, *inter alia*, for disaster mitigation, and recommending provision of funds for the purpose of mitigation. In this context, the Section 2(i) of the 2005

Act defines 'mitigation' and reads as "**2(i) 'mitigation'** means **measures aimed at reducing the risk, impact or effects of a disaster or threatening disaster situation.**

- xxiv. Further, the relevant portion from the Section 18 of the said Act is being excerpted as follows:

18. Powers and functions of State Authority.—

(1) Subject to the provisions of this Act, a State Authority shall have the responsibility for laying down policies and plans for disaster management in the State.

(2) Without prejudice to the generality of provisions contained in sub-section (1), the State Authority may—

- (a) lay down the State Disaster Management Policy;
- (b) approve the State Plan in accordance with the guidelines laid down by the National Authority;
- (c) approve the disaster management plans prepared by the departments of the Government of the State;
- (d) lay down guidelines to be followed by the departments of the Government of the State for the purposes of integration of measures for prevention of disasters and mitigation in their development plans and projects and provide necessary technical assistance therefore;
- (e) coordinate the implementation of the State Plan;
- (f) **recommend provision of funds for mitigation and preparedness measures;**
- (g) **review the development plans of the different departments of the State and ensure that prevention and mitigation measures are integrated therein;**
- (h) **review the measures being taken for mitigation, capacity building and preparedness by the departments of the**

Government of the State and issue such guidelines as may be necessary.

Likewise, the Section 6 of the Act provides similar Powers and Functions of the National Authority, in relation to disaster management.

- xxv. Section 22 and 24 of the Act lays down functions of the State Executive Committee. Further, notwithstanding the fact that the poor and downtrodden people were/are primarily the sufferers of the unplanned and ill-conceived nation-wide lockdown, the Section 19 r/w Section 12 of the said Act obligates the laying down of guidelines by the State Authority and the National Authority for the minimum standards of relief to be provided to persons affected by disaster (as the hapless, underprivileged people, migrant laborers, working poors, small traders etc. in case of COVID-19, which is also a "notified disaster" as per the Letter No. 33-4/2020-NDM-I of the Ministry of Home Affairs dt. 14/03/2020), including minimum requirements to be provided in the relief camps in relation to shelter, medical cover, sanitation and ex gratia assistance for restoration of means of livelihood. Section 12 and 19 of the Act read as under:

12. Guidelines for minimum standards of relief.—The National Authority shall recommend guidelines for the minimum standards of relief to be provided to persons affected by disaster, which shall include,—

- (i) the minimum requirements to be provided in the relief camps in relation to shelter,

food, drinking water, medical cover and sanitation;

- (ii) the special provisions to be made for widows and orphans;
- (iii) ex gratia assistance on account of loss of life as also assistance on account of damage to houses and for restoration of means of livelihood;
- (iv) such other relief as may be necessary.

"19. Guidelines for minimum standard of relief by State Authority.—The State Authority shall lay down detailed guidelines for providing standards of relief to persons affected by disaster in the State :

Provided that such standards shall in no case be less than the minimum standards in the guidelines laid down by the National Authority in this regard."

xxvi. As per the mandate of the 2005 Act, it is the responsibility of every Ministry or Department of the State to draw up mitigation, preparedness and response plans, and to provide immediate relief and to take such measures as may be necessary for disaster management. The relevant portion of the Section 39 of the 2005 Act is being excerpted as follows:

39. Responsibilities of departments of the State Government.—It shall be the responsibility of every department of the Government of a State to—

- (a) take measures necessary for prevention of disasters, mitigation, preparedness and capacity-building in accordance with the guidelines laid down by the National Authority and the State Authority;
- (b) integrate into its development plans and projects, the measures for prevention of disaster and mitigation;
- (c) **allocate funds for prevention of disaster, mitigation, capacity-building and preparedness;**

- (d) respond effectively and promptly to any threatening disaster situation or disaster in accordance with the State Plan, and in accordance with the guidelines or directions of the National Executive Committee and the State Executive Committee;
- (e) review the enactments administered by it, its policies, rules and regulations with a view to incorporate therein the provisions necessary for prevention of disasters, mitigation or preparedness;
- (f) **provide assistance, as required, by the National Executive Committee, the State Executive Committee and District Authorities, for—**
 - (i) **drawing up mitigation, preparedness and response plans, capacity-building, data collection and identification and training of personnel in relation to disaster management;**
 - (ii) **assessing the damage from any disaster;**
 - (iii) **carrying out rehabilitation and reconstruction;**
- (g) **make provision for resources in consultation with the State Authority for the implementation of the District Plan by its authorities at the district level;**
- (h) make available its resources to the National Executive Committee or the State Executive Committee or the District Authorities for the purposes of responding promptly and effectively to any disaster in the State, including measures for—
 - (i) providing emergency communication with a vulnerable or affected area;
 - (ii) transporting personnel and relief goods to and from the affected area;
 - (iii) providing evacuation, rescue, temporary shelter or other immediate relief;

- (iv) carrying out evacuation of persons or live-stock from an area of any threatening disaster situation or disaster;
- (v) setting up temporary bridges, jetties and landing places;
- (vi) **providing drinking water, essential provisions, healthcare and services in an affected area;**
- (i) **such other actions as may be necessary for disaster management.**

Likewise, the Section 36 lays down similar responsibilities of the departments of the Central Government

xxvii. The 2005 Act enjoins the State and the District Authorities, take such measures and make such guidelines for the purpose of disaster management, in accordance with the guidelines in such behalf as may be laid down by the National Authority, *supra*

xxviii. In view of the absence of any guidelines to cover the field, the measures for relief, rehabilitation, mitigation and emergency response have gone haywire owing to lack of coordination and comprehensive directives. Thus, it is imperative that the Respondent State through the State Authority, lays down guidelines in the abovesaid behalf so as to alleviate the pain and suffering of the poor and downtrodden persons.

xxix. It is also of utmost importance and necessity, that the State Government, in conjunction with the Central Government, may endeavor to lay down proper eligibility

criteria and prepare a comprehensive fasciculus of the poor, downtrodden and suffering persons and to provide such persons with compensation for their rehabilitation and immediate *ex gratia* payments/aid, as deemed fit by this Hon'ble Court and the State, based on the ground situation until such period as this Court may deem fit, otherwise, they might turn to a life of crime, delinquency and immorality, owing to having no employment or means or livelihood, and shall be further pushed to agony and misery and to the brink of starvation, beggary and death, and left fit only for the crows and vultures.

xxx. It is pertinent to mention that despite a lapse of 4 months since the issuance of the first phase of lockdown and successive lockdown(s), no proper/effective guidelines or mechanisms have been put in place to identify the suffering persons, to whom aid and assistance is to be given, muchless no measures, at all, have been taken for the succour of the poor and downtrodden persons. It seems, that the Government is wholly dependent of NGOs and volunteer organizations to help the needy, in the absence of any concrete steps by the State.

xxxi. It is appropriate to state that it is only owing to the Governments inaction and laxity in framing guidelines that the migrants crisis erupted, and our society's neediest were made to feel neglected, forgotten and

deserted, and made to embark upon a collective exodus in the absence of the even the slightest of measures for their basic survival. The migrants left feeling abandoned in the hope for greener pastures in their respective native places, but our own native State residents have nowhere to go, unlike the migrants, and still live in the hope of the Government somehow attending to their woes, left with nothing but a lingering impression of having been orphaned by the Respondents.

xxxii. The Petitioner submits that scientists modeling the pandemic's progression in India have observed that short duration lockdowns being implemented by state governments is barely of any use to curb the growth of Covid-19 and could help reduce infection rates but it would only delay the peak, rather than breaking the virus's transmission chain. True copy of the report published Deccan Herald on 14.07.2020 is annexed hereto and marked as **ANNEXURE P-5**.

xxxiii. The State is under a Constitutional obligation under Article 21 of the Constitution, and under the Statutory Mandate of the 2005 Act to frame comprehensive guidelines for the poor, needy, hapless and downtrodden persons, such as, farmers, laborers, daily wagers, people below poverty line, vendors, small businesses, migrants, etc., *inter alia*, providing for compensation, assistance, subsidies and stimulus, *ex gratia* aid and payments to

such persons for immediate relief, rehabilitation and restoration of their means of livelihood.

xxxiv. In the alternative, the petitioner(s) beseech this Hon'ble Court for the succor of the poor and downtrodden persons, such as, migrants, farmers, laborers, daily wagers, people below poverty line, vendors, small businesses etc., *inter alia*, providing for compensation, assistance, subsidies and stimulus, *ex gratia* aid and payments to such persons for immediate relief, rehabilitation and restoration of their means of livelihood, in exercise of its plenary powers under Art. 226 of the Constitution.

xxxv. Further, the State needs to lay down a uniform and comprehensive policy, providing for clear conditions and indices to be fulfilled, before the imposition and lifting of any lockdown(s), along with, providing for prior discussion and deliberation with all concerned stakeholders particularly the traders unions, labours unions, elected representatives who will/may be largely affected by the lockdown, otherwise such imposition shall become arbitrary and hit by Art. 14 of the Constitution.

xxxvi. The Petitioner also sought for the suggestions/views from general public before filing of the present Petition on imposition of the lockdown. Several citizens although have supported the imposition of lockdown however

have raised serious concerns on the hasty manner of imposition of lockdown and providing of the aid to the poor, needy, hapless and downtrodden persons, such as, migrants, laborers, daily wagers, people below poverty line, vendors, small businesses etc. True copy of the suggestions/views of the Citizens of the State is annexed hereto and marked as **ANNEXURE P-6**

xxxvii. The Petitioner enumerates the following suggestions to be taken into account and consideration by this Hon'ble Court, in framing guidelines and issuing proper directions to the respondents:

- a. The compensation or monetary assistance, including *ex-gratia* payments in form of subsistence allowances must be paid to the poor and needy persons include labourers, farmers, migrants as the State deems fit depending upon the ground realities; .
- b. The State should formulate eligibility criteria for the beneficiaries of economic aid, i.e., poor, needy, hapless and downtrodden laborers, farmers, migrants persons, and endeavor to comprehensively prepare a fasciculus of all such persons.
- c. The stringent lockdown must specifically be confined to the containment/hotspot zones and the same must be appropriately sealed so as to restrict or stifle intra-zonal and inter-zonal movement, locomotion and mobility; and the other areas must be opened, subject to rules, guidelines and restrictions as may be proper.

- d. The measures for mass testing must be taken in such containment/hotspot zones, to identify, isolate and treat the infected persons, so as to curb the further surge and spread of the coronavirus.
- e. There must be phase-wise lockdown of various areas, in consultation with the elected representatives of the constituencies, Health Officers, Ward Officers, Officers In-Charge of Police Stations, Trade Unions, NGO's and such other concerned stakeholders.
- f. Phase wise imposition of complete and stringent lockdown, subject to due and proper exemptions, may be issued so that marginalized people of the entire district are not suffering..
- g. There must be Government Approved Testing Centers in every ward, enabling every person to get themselves tested for COVID-19.
- h. Necessary incentives and subsidies must be provided on all "essential" items and commodities, needed for day to day survival.
- i. A helpline number be set up to provide aid and assistance for the sufferers of the lockdown, for instance, starving and ailing persons, victims of domestic violence, etc., so that persons in need may call the help-lines directly seeking aid from the State, District and Local Authorities, and they may be helped promptly.
- j. Proper conditions, indices and factors must be laid down under a comprehensive plan/policy for governing imposing and lifting of the lockdowns, to be fulfilled and considered before the issuance of every lockdown.

- k. The distribution of food supplies, food security allowance etc be ensured as mandated under the National Food Security Act.

xxxviii. In the facts and circumstances of the case and in the light of the submissions made hereinbefore, it is expedient and necessary in the interests of justice and fairness, that this Hon'ble Court may graciously direct the Government to lay down guidelines as per the constitutional and statutory mandate of Article 21 of the Constitution and the 2005 Act, *inter alia*, providing for, assistance, subsidies and stimulus, and *ex gratia* aid in any form for immediate relief, rehabilitation and restoration of the means of livelihood, for the poor, needy, hapless and downtrodden persons, such as, migrants, farmers, laborers, daily wagers, people below poverty line, vendors, small businesses etc.; Along with, further, to direct the State to frame a comprehensive plan/policy for governing imposing and lifting of the lockdowns, laying down proper conditions, indices and factors to be fulfilled and considered before the issuance of every lockdown; And further, if so deemed fit, or in the alternative, in exercise of the inherent and plenary power of this Hon'ble Court under Article 226 of the Constitution, issue such guidelines as may be necessary for the succour of the poor, needy, hapless and downtrodden persons, with due regard to the suggestions given by the petitioner(s) and appropriate

assistance of the concerned Ministries and Departments of the Government and the Disaster Management Authorities, further, regarding the phase wise continuance of the lockdown, until the normalization of the pandemic situation and the flattening of the COVID-19 curve, and the eventual relaxation and lifting thereof, for preserving the life and health and for the safety and in the interests of the public at large, otherwise the whole nation and citizenry shall be put to great hardships and irreparable loss;

xxxix. That this Hon'ble Court can certainly pass appropriate direction in the present scenario and keeping in mind the larger perspective in the exceptional and unprecedented circumstances prevailing as of now, to ensure that the fundamental rights of the Petitioners are protected and/or not violated at the hands of the respondents as non-extension or non-grant of benefits as prayed for by the Petitioner herein.

xl. That not only this Hon'ble Court, the Hon'ble Supreme Court and other High Courts have in such exceptional circumstances and keeping in mind the current pandemic situation which is unprecedented in the history of human kind, issued orders / directions to guide, rectify or set aside the actions / inactions of the state authorities to ensure and mitigate the hardships faced by the citizens of the Country who are facing grave

economic crisis and job losses due to the current pandemic.

10. Sources of Information relied upon:

- i. Order of the Pune Municipal Corporation dated 12.07.2020 and 13.07.2020
- ii. New paper Articles
- iii. Social media platforms

11. Delay if any in filing the Petition and explanation thereof:

That there is no delay in filing the present Public Interest Petition under the Article 226 Constitution of India, 1950.

12. The Petitioner has filed the present Petition before this Hon'ble Court under Article 226 of the Constitution of India and therefore this Petition can be heard and disposed of by this Hon'ble Court.

13. The Petitioner states that the Petitioner has paid all the proper Court fees stamp.

14. The Petitioner shall rely upon documents, a list of the same are annexed herein with this Petition.

15. The Petitioner states that Petitioner has not filed any other Petition in respect of the reliefs prayed in this Petition, in any other Court of law. The Petitioner further submits that, in the facts of the case, the Petitioner have no other remedy available save and except by way of approaching this Hon'ble Court under Article 226 of the Constitution.

16. The Petitioner states that the Office of Respondents are within the jurisdiction of this Hon'ble Court; and the present Petition involves question of infringement of Public Interest; and therefore, this Hon'ble Court shall have the territorial jurisdiction to entertain and pass authoritative Orders, as prayed for hereinafter.

17. The Petitioners crave leave to add, amend, delete and/or modify and of the grounds/submissions/pleadings as and when required.

PRAYERS

In the light of the submissions adumbrated hereinbefore, and in the facts and circumstances of the case, the PETITIONER(S) THEREFORE **MOST RESPECTFULLY** PRAY(S) AS UNDER: -

- a. To issue a writ, order or direction, in the nature of Mandamus, directing the Government to lay down guidelines as per the constitutional and statutory mandate of Article 21 of the Constitution and the 2005 Act, *inter alia*, providing for compensation, assistance, subsidies and stimulus, *ex gratia* aid and payments for immediate relief, rehabilitation and restoration of the means of livelihood, for the poor, needy, hapless and downtrodden persons, such as, migrants, poor farmers, laborers, daily wagers, people below poverty line, vendors, small businesses etc.;
- b. Direct the Respondents to place before this Hon'ble Court the comprehensive guidelines/plans as prepared by the State providing compensation, assistance, subsidies and stimulus, *ex gratia* aid and payments for immediate relief, rehabilitation and restoration of the means of livelihood, for the poor, farmers, needy, hapless and downtrodden persons, such as, migrants,

laborers, daily wagers, people below poverty line, vendors, small businesses etc

- c. To issue a writ, order or direction, in the nature of Mandamus, directing the State to frame a comprehensive plan/policy for governing imposing and lifting of the lockdowns, laying down proper conditions, indices and factors to be fulfilled and considered before the issuance of every lockdown; And/or
- d. Direct the Respondents to place before this Hon'ble Court exact action plan and tenure of the lockdown in different parts/District of the State and whether will it be extended; and
- e. Direct the Respondents to place before this Hon'ble Court the Status report with regards to the effective implementation of scheme and provisions of the National Food Security Act, 2013 and the steps undertaken during the imposition and re-imposition of the lockdown.
- f. To issue writ, order, or directions, if so deemed fit, or in the alternative, in exercise of the inherent and plenary power of this Hon'ble Court under Article 226 of the Constitution, issuing such guidelines as may be necessary for the succour of the poor, needy, hapless and downtrodden persons, with due regard to the suggestions given by the petitioner(s) and appropriate assistance of the concerned Ministries and Departments

of the Government, including with regard to the continuance of the lockdown, until the normalization of the pandemic situation and the flattening of the COVID-19 curve, and the eventual relaxation and lifting thereof;

- g. To pass such other and further orders or relief(s) that this Hon'ble Court may deem fit and proper in the facts and circumstances of the case;
- h. To award the costs of the writ petition and proceedings.

**AND FOR THIS ACT OF KINDNESS THE PETITIONER(S)
SHALL AS IN DUTY BOUND, EVER PRAY.**

Drawn By:

Rajesh Inamdar, Adv.

Shashwat Anand, Adv.

A.Karim Pathan, Adv.

~~ADVOCATE FOR~~ THE PETITIONER

Pune

DATED 16/07/2020