

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5633 of 2020

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In Re Functioning of Courts in Bihar during the period of COVID-19,
PANDEMIC Petitioner/s

Versus

The State of Bihar Respondent/s

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Appearance:

For the State	:	Mr. Lalit Kishore, Advocate General
For the Union of India	:	Dr. K. N. Singh, Addl. S.G.
For the Advocates' Association	:	Mr. Yogesh Chandra Verma, Sr. Advocate
		Mr. Shailendra Kumar Singh, Advocate
For the Lawyers' Association	:	Mr. Ajay Kumar Thakur, Advocate
		Mr. Rajeev Kumar Singh, Advocate
For the Bar Association	:	Mr. Sanjay Singh, Advocate
		Mr. Mukesh Kant, Advocate

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CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

and

HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA

ORAL ORDER

(Per: HONOURABLE THE CHIEF JUSTICE)

(The proceedings of the Court are being conducted by Hon'ble the Chief Justice/ Hon'ble Judges through Video Conferencing from their residential offices/residences. Also, the Advocates and the Staffs joined the proceedings through Video Conferencing from their residences/offices.)

11 30-09-2020 Heard Mr. Lalit Kishore, learned Advocate General, Bihar-cum-Chairman, Bihar State Bar Council; Dr. K.N.Singh, learned Additional Solicitor General of India (Patna); Mr. Yogesh Chandra Verma and Mr. Shailendra Kumar Singh, President and General Secretary, Advocates' Association; Mr. Ajay Kumar Thakur and Mr. Rajeev Kumar Singh, President and General Secretary, Lawyers' Association; and Mr. Sanjay Singh and Mr. Mukesh Kant, President and General Secretary, Bar Association



of this Court.

In pursuance of the order dated 23.9.2020, all three Associations have clarified their stand with regard to the Court proceedings through physical mode, virtual mode as well as e-filing and physical filing.

The stand of the President of the Bar Association brought on record vide letter dated 28.9.2020 addressed to the learned Advocate General focuses on three points – start of Court in physical mode, start of physical filing and ease of e-filing. It further states that 3-4 Courts in physical mode should resume with old civil and criminal matters strictly adhering to the operating procedure as suggested by the Hon'ble Supreme Court. The Court proceeding through physical mode should be started, firstly allowing those lawyers who are having difficulties in filing their cases through e-mode due to lack of infrastructure facilities. A limited number of tokens be generated for physical filing.

So far as ease of e-filing is concerned, there should be no mentioning for the bail matters and the listing should be as per seriatim of their uploading on the High Court website. The pending bail applications should be listed. The process of e-filing should be improved. The capacity of e-filing be increased to 50 mb per file with 300 dp resolution.



The stand of the Lawyers Association has been voiced by the President of the Association through a letter addressed to Hon'ble the Chief Justice through e-mail dated 29.9.2020. The Lawyers Association has given suggestion for resumption of 4-5 Courts in physical mode with entry of ten advocates only. The entry of litigants and advocate's clerks will completely be prohibited and the small court rooms should be used for waiting room for the lawyers.

The Advocates' Association has expressed its stand through an affidavit of its President Mr. Yogesh Chandra Verma, which suggests that the number of physical Courts should be determined by the High Court but filing of all cases be accepted. The Court proceeding in physical mode should be on rotational basis like Delhi High Court. The physical filing should be through drop boxes as is the practice adopted in Jharkhand High Court and Orissa High Court.

The stand of Additional Solicitor General of India (Patna) is that the High Court should decide the date of resumption of physical filing, maximum fifty cases be listed in every bench, senior advocates should be allowed to be assisted by one junior advocate, and clients should be restricted from entering the court rooms, government officials should not be called to the court, sanitization should be undertaken throughout



the premises. The cases filed between March and June, 2020 be processed and listed in chronological order of their filing. Stamp reporting should be done within one week of e-filing.

All stake holders unanimously agreed and suggested the parameters for e-filing, physical filing, listing and hearing, as follows:

- (i) No mentioning in bail matters in any mode;
- (ii) Processing of bail applications chronologically based on the date of filing and not mentioning;

E-filing

- (i) A maximum of 100 petitions per day be accepted through e-mode.

Physical filing

- (i) For enabling such filing, an OTP shall be generated on first-come-first basis. Not more than one token per day shall be issued in favour of the same AOR.
- (ii) Physical filing be accepted only after a copy of the brief has been filed in the office of the Advocate General/Additional Solicitor General of India or other nominated counsel of instrumentality of State;
- (iii) An application shall be processed only if it is filed



- by an AOR, and subject to a maximum of two applications filed by him in a week through both modes taken together;
- (iv) Defects in physical filing shall be removed only through physical mode and not by e-mode;
- (v) A maximum of 100 petitions per day to be accepted through physical-mode;
- (vi) All three Associations will collect the petitions to be filed by their lawyers and will keep them in the new Shatabdi Bhawan from where the Court Officer will have them collected every day between 12.00 noon and 12.30 P.M.
- (vii) Physical filing will be accepted only if the petition is duly affidavited with court fee and stamp;
- (viii) If a petition is filed both through e-mode and physical mode, it will not be processed;
- (ix) A petition filed through either mode must contain a statement that it has not been filed by the other mode;
- (x) Details of petitions validly filed will be uploaded on the website of the Court within 48 hours.

We are ready to consider the unanimous stand of the



three Associations. However, let the matter be placed tomorrow at 10.30 A.M. for further hearing with regard to the necessary infrastructure to be set up, and parameters with regard to sanitization and security measures to be set out, for the safe and smooth functioning of Court proceedings in physical mode.

(Sanjay Karol, CJ)

(Dinesh Kumar Singh, J)

(Hemant Kumar Srivastava, J)

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