

IN THE HIGH COURT AT CALCUTTA  
Constitutional Writ Jurisdiction  
ORIGINAL SIDE

MANGAL SARDAR

-Versus-

THE UNION OF INDIA AND ORS.

BEFORE:

The Hon'ble CHIEF JUSTICE THOTTATHIL B. RADHAKRISHNAN

The Hon'ble JUSTICE ARIJIT BANERJEE

Date : 26<sup>th</sup> February, 2021.

**(Via Video Conference)**

Appearance:

*Mr. Srikanta Dutta, Adv.*

*Ms. Rituparna Sarkar Dutta, Adv.*

*...for the petitioner.*

*Mr. Amitesh Banerjee, Sr. Standing Counsel*

*Ms. Ipsita Banerjee, Adv.*

*...for the State-respondents.*

The Court : We have heard the learned counsel for the petitioner in support of the writ petition seeking issuance of a writ in the nature of direction in exercise of authority under Article 226 of the Constitution of India. We have also before us Learned Senior Standing Counsel for the State Government assisted by Ms. Ipsita Banerjee.

Learned Counsel for the petitioner points out some of the directions issued by the State of West Bengal in consonance with the advisory of the Government of India for management of the post COVID-19 pandemic situation.

The three golden cardinal principles rolled out for the people to follow include social distancing, wearing of masks and also sanitising the hands. We are clear in our mind that social responsibility of the citizens in terms of the fundamental duties enshrined in Part-IV A of the Constitution should necessarily trigger the citizens to act in consonance with the larger good. This includes use of masks, following the sanitization process and also keeping safe distance not only for the benefit of one's self but also for the benefit of such person's kith and kin as also the neighbourhood and the society at large. The enforcement of such matters through policing cannot go beyond a particular range on ground. Confrontation between the police and the people should not be permitted to happen, since situations of human rights violation and such aspects have also to be taken care of. With passage of time, we can take judicial notice of the fact that many sectors have opened up. The Courts have also opened up. The railway sector, the metro railways, malls, cinema halls etc. are now being permitted to be opened up. Obviously, this does not mean that all guidelines and safety precautions should be thrown to the wind. The Government has not only policing power but also an advisory role as the elected representative of the citizens.

Taking all the aforesaid into consideration, we are of the view that this writ petition could be disposed of by requesting Learned Senior Standing Counsel appearing for the State

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Government to bring the apprehensions raised by the petitioner to the notice of the appropriate authorities in the Government so that the governmental action will also be focussed on aspects sought to be raised by the writ petitioner.

The writ petition is disposed of with such directions.

Since we have not called for affidavits, the allegations contained in the writ petition are deemed not to be admitted by the respondents.

(THOTTATHIL B. RADHAKRISHNAN, CJ.)

(ARIJIT BANERJEE, J.)

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