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THE HIGH COURT OF MADHYA PRADESH

W.P. No. 8820/2021

[In Reference (Suo Motu) vs. Union of India and others]

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Jabalpur, Dated: 23.04.2021

Heard through Video Conferencing.

Shri P.K. Kaurav, Advocate General and Shri Pushpendra Yadav, Additional Advocate General for the State.

Shri J.K. Jain, Assistant Solicitor General for the Union of India.

Dr. Vijay Kumar Chaudhary, Advocate - Chairman, M.P. State Bar Council.

Shri Raman Patel, Advocate - President, High Court Bar Association, Jabalpur.

Shri Manoj Sharma, Advocate - President, High Court Advocates' Bar Association, Jabalpur.

Shri Aditya Adhikari, Senior Advocate - Secretary, Senior Advocates' Council, Jabalpur.

Shri Lokesh R. Bhatnagar, Advocate - President, High Court Bar Association, Indore.

Shri M.P.S. Raghuvanshi, Advocate - President, High Court Bar Association, Gwalior.

We have initiated this *suo motu* proceeding in an extraordinary situation on account of surge in Coronavirus cases in the State following the onset of second Covid wave, as a result of which, the residents of Madhya Pradesh are facing acute crisis. The State Government has imposed lockdown/corona curfew in almost all major cities of the State, mostly starting from 10.04.2021 ending on different dates, at most of the places either on 26.04.2021 or on 30.04.2021. Considering the spike in Coronavirus cases, situation is not likely to

be normal in next few weeks. Resumption of normal work by the Courts in the State is likely to take some time.

A large number of Coronavirus positive cases are being reported from different parts of the State including bigger cities like Bhopal, Indore, Jabalpur, Gwalior and Ujjain. In fact, Corona has engulfed substantial part of the State and has made inroads even into rural areas. Although we do not want to disclose the exact numbers collated by the Registry of this Court but suffice it to say that a large number of stakeholders including the Judicial Officers, employees of the Courts and the Advocates have been found positive for Coronavirus in almost all the districts of the State and unfortunately, some of them have even succumbed to this deadly disease. Owing to this situation, the functioning of the Courts everywhere has been affected adversely. More or less, all the District and Sub-ordinate Courts are working in a restricted manner and taking up only extremely urgent nature of cases by deputing small number of officers by rotation through virtual mode. In certain places, where Coronavirus cases were relatively lesser in number, the work was being carried out hitherto through hybrid mode both by physical appearance as well as virtual appearance but working of the Courts even at such places has been affected adversely and only extremely urgent nature of cases are being taken up by deputing limited number of officers. The State Government in the recent order issued on 20.4.2021 required all the Government offices to function with only 10% staff members up to 30.4.2021, however with the exception of offices pertaining to essential services. The offices of the Courts have not been kept out of purview of the aforesaid restriction. Now therefore in view of recent order issued by the Government on 20.4.2021, the District and Sub-ordinate Courts at other places of the State are also shifting to virtual mode.

It would be evident from above narration that the Courts throughout the State are not able to function effectively in a regular manner. Even the High Court, Principal Seat at Jabalpur, Bench at Indore and also Bench at Gwalior had to suspend the normal

functioning following lockdown imposed by the Government with effect from 10.4.2021. It may take some more time for the High Court as well as District and Sub-ordinate Courts, Labour Courts and Family Courts in the State to resume normal functioning due to the ongoing unprecedented crisis. This has given rise to a situation where most of the litigants are not in a position to approach the Courts. Though some of them may stay in touch with their advocates only telephonically but majority of them may not be in a position to contact their advocates. Many of the matters which otherwise would have been listed for passing appropriate orders, owing to aforementioned reasons, are not being taken up by different Courts.

In view of above, therefore, with a view to ensuring that the citizens of the State in general and the litigants before the Courts in particular, do not suffer on account of their inability to approach the Courts of law, this Court proposes to invoke its extraordinary power under Article 226 and its power of superintendence under Article 227 of the Constitution of India and also inherent power over the criminal matters under Section 482 of the Code of Criminal Procedure, power of superintendence over Criminal Courts under Section 483 of the Code of Criminal Procedure and inherent power over the civil matters under Section 151 of the Code of Civil Procedure and issue the following directions to remain operative in the first phase till 15th June, 2021:-

- (i) that all the interim orders/directions issued or protection granted including any order requiring any compliance by the parties to such proceedings, passed by this Court or any other Court sub-ordinate to it or any Family Court or Labour Court or any Tribunal or any other Judicial or Quasi Judicial forum in the State of Madhya Pradesh, over which this Court has power of superintendence, which were subsisting as on 10th March, 2021, shall stand extended till 15th June, 2021;
- (ii) that it is further directed that the interim orders or directions of this Court or any Court sub-ordinate to this Court in the State, which are not of a limited duration and were meant to operate

till further orders, shall continue to remain in force until modified/altere/vacated by specific order of the Court concerned in a particular case;

- (iii) that the time for filing of written-statement or return in any Suit or proceeding pending before any Civil Court or any other forum, unless specifically directed, shall stand extended till 15th of June, 2021. It is however clarified that this will not preclude the parties from filing such written-statement or return before 15th June, 2021;
- (iv) that it is further directed that the orders of eviction, dispossession, demolition, etc. passed by this Court or any Court subordinate to it or any Tribunal or Judicial or Quasi Judicial forum, which have so far remained unexecuted, shall remain in abeyance till 15th of June 2021;
- (v) that interim protection given in the anticipatory bail applications by the High Court or Court of Sessions for a limited period, which has expired or is likely to expire on any date after 10th March, 2021, shall stand extended till 15th of June, 2021. However, any party aggrieved by the conduct of the accused on such interim protection, may move the Court in seisin over the matter for discontinuation of such interim protection, if any prejudice is caused to him/her, in which event, the Court concerned shall be entitled to take independent view of the matter;
- (vi) that all the interim bail granted under Section 439, Cr.P.C. by the High Court or Courts of Sessions, limited by time-frame specifying an expiry on any date after 10th March 2021, shall stand extended till 15th June, 2021, subject to the accused not abusing such liberty or else it may be cancelled at the instance of the State or the complainant, on application with adequate proof of the abuse of the liberty so granted by the Court concerned;

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- (vii) that parole granted to a person anytime after 9th March, 2021 by order passed by a Court exercising the criminal jurisdiction and limited by time-frame specifying an expiry date, shall stand extended till 15th of June, 2021, subject to the condition specified in Point No.(vi) above;
- (viii) that unless there is necessity of arrest for maintenance of law and order situation, in a cognizable offence prescribing sentence up to seven years imprisonment, the police shall desist from arresting the accused up to 15th of June, 2021, without complying with the provision of Section 41A, Cr.P.C. This however may not be understood as an interdict on the power of the police to arrest, but should only be considered mere advisory in the face of the ongoing crisis following second wave of Coronavirus;
- (ix) that the State Government or any of its Department or any Municipal Corporation / Council / Board or any Gram Panchayat or any other local body or any other agency and instrumentality of the State shall not take any action for eviction and demolition in respect of any property, over which any citizen or person or party or any Body Corporate, has physical or symbolic possession as on today till 15th June, 2021;
- (x) that it is further directed that, any Bank or Financial Institution shall not take action for auction in respect of any property of any citizen or person or party or any Body corporate till 15th June, 2021;
- (xi) that if the Government of Madhya Pradesh and/or any of its Department and/or functionaries, Central Government and/or its departments or functionaries or any Public Sector Undertakings or any Public or Private Companies or any Firm or any individual or person is/are, by the order of this Court or any Court subordinate to it or the Tribunals, required to do a particular thing or carry out certain direction in a particular manner, in a time frame, which has expired after 10th March,

2021 or is going to expire at any time from now up to 15th June, 2021, the time for compliance of such order shall stand extended up to 15th June, 2021, unless specifically directed otherwise by the Court concerned;

- (xii) that in order to dispel any ambiguity, it is clarified that:-
- (a) those interim orders / directions, which are not for a limited duration and are to operate until further orders, shall by this order remain unaffected;
 - (b) that, in case extension of interim order(s) as per the present order passed by this Court, causes any undue hardship and prejudice of any extreme nature, to any of the parties to such proceeding(s), such parties would be at liberty to seek appropriate relief by moving appropriate application(s) before the Competent Court(s), Tribunal, Judicial or Quasi-Judicial Forum, and these directions shall not be taken as a bar for such Courts/Forums to consider such application(s) filed by the aggrieved party, on its own merit, after due notice and providing opportunity of hearing to the other side;
 - (c) that the directions enumerated above shall not preclude the State from moving appropriate application for vacation/modification of such order in any particular case for reason of overriding public interest;
 - (d) that all Courts, Tribunals, Judicial and Quasi-judicial authorities are directed to abide by these directions, and the parties seeking relief(s) covered by these directions can file hard copy or soft copy of this order before the competent court/forum, which shall be given due weightage.

Registry is directed to prominently publish this order in the official website of the Court and circulate the same to all the Courts, Tribunals, judicial and quasi-judicial authorities of the State, over

which this Court has power of superintendence. A copy each of this order be endorsed to the learned Advocate General, learned Assistant Solicitor General for Madhya Pradesh and the Chairman of M.P. State Bar Council.

The Registry is directed to give wide publicity to this order through Print and Electronic Media having wide circulation in the State so that the litigants may know about the order and do not rush to the Court for different relief(s) covered by these directions.

Let notice of these proceedings be issued to the State of Madhya Pradesh through the Chief Secretary, Bhopal, through Advocate General and Union of India through the Secretary, Ministry of Home Affairs, New Delhi and the Secretary, Ministry of Health and Family Welfare, Government of India, New Delhi, through the Assistant Solicitor General.

This Court hereby appoints Shri Aditya Adhikari, learned Senior Advocate as *Amicus Curiae* to assist the Court in the matter. A copy of this order be provided to him as well.

List this matter on **15th June, 2021** for further consideration.

(Mohammad Rafiq)
Chief Justice

(Sanjay Dwivedi)
Judge

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