

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.353 of 2021

Shivani Kaushik

... .. Petitioner/s

Versus

Union of India

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 5713 of 2020

Bihar Local Bodies Employee Federation

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 9639 of 2021

Gaurav Kumar Singh

... .. Petitioner/s

Versus

The Union of India

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 12598 of 2021

Harihar Prasad

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 16206 of 2021

Avinash Kumar

... .. Petitioner/s

Versus

The State of Bihar through the Principal Secretary,



... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 353 of 2021)

For the Petitioner/s : Ms. Shivani Kaushik (In Person)
Mr. Mrigank Mauli, *Amicus Curiae*
Ms. Parul Prasad, *Amicus Curiae*

For the Union of India : Dr. K.N. Singh (ASG)
Mr. Anshuman Singh, CGC
Ms. Kanak Verma, CGC

For the State : Mr. Lalit Kishore, Advocate General
Mr. Anjani Kumar, AAG-4
Mr. S.D. Yadav, AAG-9
Mr. Amit Kumar Jha, A.C. to AAG-4
Mr. Alok Kumar Rahi, AC to AAG-4

For Respondent No. 5 : Mrs. Binita Singh, Advocate

For Respondent No. 6 : Mr. Shivender Kishore, Sr. Advocate
Ms. Archana Sinha, Advocate

For the Respondents : Mr. S.D. Sanjay, Sr. Advocate

For the PMCH : Mr. P.K. Shahi, Senior Advocate
Mr. Vikas Kumar, Advocate

For the PMC : Mr. Prasoon Sinha, Advocate

For the DMCH : Mr. Bindhyachal Rai, Advocate

For the GMC : Mr. Rabindra Kumar Priyadarshi, Advocate

For the Intervener : Mr. Yogesh Chandra Verma, Sr. Advocate
Mr. Prashant Sinha, Advocate
Mr. Rajiv Kumar Singh, Advocate
Mr. V.K. Singh, Advocate

(In Civil Writ Jurisdiction Case No. 5713 of 2020)

For the Petitioner/s : Mr. Yogesh Chandra Verma, Sr. Advocate
Mr. Anuj Kumar, Advocate
Mr. Madhav Raj, Advocate

For the Respondent/s : Mr. Lalit Kishore, Advocate General
Mr. Pankaj Kumar, SC-12

(In Civil Writ Jurisdiction Case No. 9639 of 2021)

For the Petitioner/s : Mr. Sumeet Kumar Singh, Advocate
Mr. Nikhil Singh, Advocate

For the UOI : Dr. K.N. Singh (ASG)
Mr. Anshuman Singh, CGC

For the State : Mr. Lalit Kishore, Advocate General
Mr. Anjani Kumar, AAG-4
Mr. Amit Kumar Jha, A.C. to AAG-4

For AIIMS, Patna : Mr. Binay Kumar Pandey, Advocate

(In Civil Writ Jurisdiction Case No. 12598 of 2021)

For the Petitioner/s : Mr. Sriram Krishna, Advocate

For the State : Mr. Yogendra Prasad Sinha, AAG-7
Mr. Rakesh Ambastha, AC to AAG-7
Mr. Durga Nand Jha, Advocate

(In Civil Writ Jurisdiction Case No. 16206 of 2021)



For the Petitioner/s : Mr. Devi Das Srivastava, Advocate
For the Respondent/s : Mr. Ajay Bihari Sinha, GA-8
Ms. Kalpana, AC to GA-8

**CORAM: HONOURABLE THE CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE S. KUMAR
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.)

58 05-01-2022 Learned Advocate General invites our attention to the notification dated 4th of January, 2022, issued by the Government of Bihar, notifying the peremptory steps taken for preventing the pandemic.

Translated version of the relevant portion of the notification reads as:-

“1. All Government Offices and non-govt. offices shall remain open with 50% attendance. The entry of visitors shall remain prohibited in govt. offices.

Exceptions – The essential services such as the offices relating to District Administration, Police, Home Guard, Jail, Civil Defence, Electric/power supply, water supply, sanitation, fire brigade, health, animal husbandry, disaster management, telecommunication, post offices, treasury and its connected offices of Finance Department, the offices relating to procurement of food grains, environment, forest and climatic change department shall remain operative as before for urgent activities.

The decision taken by the Hon'ble High Court with regard to Judicial Administration shall be effective.

2. All shops and establishment shall be opened till 8 PM.

Exceptions –

(A) Banking, Insurance and relevant establishment for regulation of ATM, the offices/activities of non-banking financial companies.

(B) The establishment relating to industries and manufacturing works.



- (C) All kinds of construction works.
- (D) All activities connected to e-commerce and courier services.
- (E) Agriculture and its related works.
- (F) Print and electronic media.
- (G) Activities relating to tele-communication, internet services, broadcasting and cable services.
- (H) Petrol pump, LPG, Petroleum etc, and its retail and storage establishments.
- (I) Cold storage and warehousing services.
- (J) Private security services.
- (K) The sale of fruits and vegetable vendors.

The operation of shops and establishment shall be done with following conditions –

- It would be mandatory for all to wear mask always in the shops and establishments.
- The arrangement of sanitizer shall be made compulsorily for the use of staff and visitors by the shopkeepers on the counter of shops and establishments.
- The standards of social distancing (two yards) shall be maintained in the premises of shop and establishment for which white circles shall be marked there.
- The District Administration shall take further legal action on non-compliance on the aforesaid conditions.

3. Educational Institution – The schools and coaching institutions from pre-school to class-VIII shall remain closed but online education may be imparted.

The schools, coaching and education institutions related to class-IX and higher classes may be operative with 50% attendance. Online education shall be given priority.

4. All religious places shall remain closed for devotees/common people.

5. All Cinema halls, shopping malls, clubs, swimming pools, stadiums, Gyms, parks and gardens shall remain completely closed.

6. The operation of hotels and restaurants shall be admissible with the use of maximum of 50 % of full sitting capacity. The concerned establishment shall ensure that their all employees/workers would have taken both doses of Covid vaccine.

7. The marriage ceremony may be organized with attendance of maximum 50 % but the permission of D.J. and Barat procession shall not be given. The prior information of marriage shall be given at least three days before the commencement to the local police station. There shall be a



limit of 50 persons to participate in final rites/rituals.

8. 100% use of prescribed sitting capacity in public Transport will be permissible. The Transport Department will ensure that there will be no overcrowding in public vehicles, wearing of mask will be compulsory for all the passengers.

9. It will be compulsory always wearing mask for pedestrians on public places and roads and passengers private vehicles.

10. All types of public and private type social/political/entertainment game-sports/Educational/cultural and Religious programmes may be organized with 50% capacity and maximum limit of 50 persons (whichever be less) and with strict compliance of covid protocol (compatible behavior) and up-to-date standard operating procedure (SOP) for organizing such programmes, prior permission of District administration will be compulsory.

11. There will be Night curfew in the State from 10 PM of night till 5 AM of morning. During above period, following will be admissible:-

- Vehicles engaged in health care activities and private vehicles used for health purposes.

- Government vehicles of concerned offices of permitted works and vehicles engaged in forest management.

- All types of Goods Carrier vehicles.

- Such types of private vehicles in which passengers of aero planes/Trains are traveling and who have tickets.

- Private vehicles of government servants going to duty and other essential permitted services.

- Private vehicles plying to other states on interstate roads.

12. There will be restrictions on organizing all types of fairs and exhibitions.

The District Administration will ensure strict compliance of Covid protocol and up-to-date standard operating procedure (SOP) concerning social distancing and wearing mask in public vehicles and crowded places, viz... vegetable markets, Bazar etc. If it is not being complied with aforesaid continued directions in any place, market, organization, strict actions alongwith closure of those places may be taken against them.

The District Magistrate may impose additional and more strict restrictions in addition to aforesaid restrictions after reviewing the local situations, but in any circumstance, aforesaid restrictions cannot be relaxed.

All District Magistrate will issue prohibitory order under section 144 Cr.P.C. for proper implementation of the order mentioned in above paragraphs.

Punitive action will be taken under section 51-60 of Disaster Management Act, 2005 and provisions of Section-188 of I.P.C. against the concerned persons found violating aforesaid orders.”



We are also informed that it is the endeavour of the Government to test at least two lac persons on daily basis through R.T.-P.C.R., TrueNat and rapid Antigen test. Testing is being done at various places including that of mass congregation such as Railway Stations, Airports, Banks, Market places etc.

Further one laboratory for identifying the variant of Concern(VoC) 'Omicron', has started Genome sequencing at I.G.I.M.S, Patna and for the very same facility, the Government has already issued no objection to a private laboratory, i.e. SARAL Path Lab, Kankarbagh, Patna.

Learned Advocate General further informs that medicines such as Paracetamol, Azithromycin, Vitamin-C, Zink and Vitamin-B Complex are being made readily available, free of cost, to all persons in need, more so who are under home isolation.

We notice that thus far, the inflection of the virus has not resulted into hospitalization of patients, which, in our considered view, is a very good sign. The State Government has installed a telemedicine facility for the patients/their relatives who can seek medical advice from registered medical



practitioners. For such purpose, a mobile App., namely E-Sanjeevani, O.P.D. is fully functional.

Learned Advocate General further informs that home isolation kits are being dispatched directly to the patients in home isolation, for which purpose the Department of Health, Government of Bihar, has coordinated with the postal authorities.

Importantly our attention is invited to the fact that, at this point in time, the Government has sufficient arrangements for hospitalization and there is enough supply of Oxygen, should the need so arise, even on emergent basis. The State Government has established and made operational ten L.N.O. tanks to boost up the medical Oxygen supply in the Medical College(s) and Hospital(s) throughout the State. Under the P.M. Care Fund, 62 P.S.A. Plants already stand commissioned and Oxygen concentrators; Oxygen Storage Tanks/ Cylinders of all types are fully operational and functional. In fact, at this point in time, the State Government has the capacity to provide on daily basis, 490 Metric Tonnes of Oxygen, which is 130% of the peak Oxygen demand, noticed at the time of 2nd wave of the pandemic.

On a pointed query as to how the public masses are



being educated for taking steps in preventing the spread of the infection, we are informed that regular press conferences, at least twice a week, are being conducted to disseminate information to the general public. Here, we emphasizingly express our concern, for such an exercise needs to be expedited and carried out vigorously. Endeavour must not only be to educate the general public to avoid congregation at public places, but adhere to the basic discipline of Oral hygiene, Hand Hygiene and Social Distancing. Collectively we have to deal with the Pandemic for any slip or misadventure of an individual or a community would certainly endanger all human life.

We are sure that the Government is providing for and distributing masks and sanitizers to the public, wherever the need so arises.

We are in agreement with the learned Advocate General that, perhaps, the social media platform can be best equipped to disseminate all information to the general public. For this, we have, even on an earlier occasion, emphasized the need of engaging the N.G.O's. and the Civil Society for undertaking such an endeavour. We only hope that the Government shall consider this aspect with the required urgency, speed and dispatch.



Let a supplementary affidavit of the additional steps taken, more so in the light of communication dated 21st December, 2021 bearing D.O. No. Z.28015/318/21-EMR that of the Secretary, Government of India, Department of Health and Family Ministry of Health and Family Welfare, be filed before the next date.

For such purpose, matter be listed on Wednesday i.e. 12th of January, 2022.

(Sanjay Karol, CJ)

(S. Kumar, J)

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