

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/WRIT PETITION (PIL) NO. 42 of 2020

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SUO MOTU
Versus
STATE OF GUJARAT & 2 other(s)

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Appearance:

SUO MOTU(25) for the Applicant(s) No. 1
MR KAMAL B TRIVEDI, ADVOCATE GENERAL with MS ML SHAH,
GOVERNMENT PLEADER, MR DEVANG VYAS, ASSISTANT SOLICITOR
GENERAL, MR MITESH AMIN, PUBLIC PROSECUTOR for the Opponent(s)
No. 1,2,3

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CORAM:HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH
and
HONOURABLE MR.JUSTICE ASHUTOSH J. SHASTRI

Date : 01/04/2020

ORAL ORDER
(PER : HONOURABLE THE CHIEF JUSTICE MR. VIKRAM NATH)

1. The above matter, registered as *Suo Motu* Public Interest Litigation on 13th March, 2020 after being taken up on 20th March, 2020 and 27th March, 2020 was fixed for 3rd April, 2020 for further consideration.
2. However, in view of the incident of mass congregation in Delhi and highlighting of its aftermath not only in the news channels yesterday but also in all the leading newspapers today, by an administrative order of date, the matter was fixed at 12.00 Noon today after due notice to the top Law Officers of the State of Gujarat

and learned Assistant Solicitor General of India representing the Union of India.

3. According to news reports, there are at least 200 members of the congregation who have travelled to Gujarat, may be infected with the deadly virus. The news reports further confirmed the death of one person in Gujarat out of a total of 8 deaths all over the country who had participated in the congregation at Delhi. More than two dozens participants in the congregation have been confirmed positive for the deadly Virus. No one knows where all these 200 or more members of the congregation are now based in the State of Gujarat.

4. Shri Kamal B. Trivedi, learned Advocate General appearing for the respondent-State of Gujarat submitted that the Government is already in the process of identifying and tracing not only the members of the said congregation having travelled to Gujarat but also the details of the other persons coming in close contact with the said members. He, however, stated that the State of Gujarat does not have

complete information of all the members who were participants in the said congregation and have travelled to Gujarat. According to him, on the basis of the partial information received regarding the above, the members who have participated in the congregation are being identified and dealt with accordingly by providing necessary care and protection.

5. Shri Kamal B. Trivedi, learned Advocate General further stated that as soon as further information is received from the Centre, the State of Gujarat would complete the exercise of identifying and locating all such persons and further taking due precautionary measures.
6. Shri Devang Vyas, learned Assistant Solicitor General of India, representing the Union of India has assured the Court that the Central Government, after collecting necessary data from the State of Delhi about the members who participated in the congregation at Delhi and have now travelled to different States, would share the same with the respective states including Gujarat.

Shri Vyas has provided a brief Note containing the relevant facts of this Tablighi Jamaat crisis as also the steps being taken to identify, trace, control and take all preventive measures. The said Note is being made part of this order and it reads as under:-

- “1. It is submitted that the Hon’ble Court has taken suo motu cognizance of various newspaper reports on Tablighi Jamaat Congregation (hereinafter referred to as the “TJ Congregation”, for the sake of brevity) and participation by foreign nationals therein.
2. It is submitted that as per the information available, approximately 2000 foreign nationals have come to India for participating in TJ activities.
3. Most of the foreigners have entered into India through tourist visas which are issued for limited purposes. These visas which can be said to be relevant for the present issue are categorized as under:-

“Tourist Visa:

This visa is granted to the Foreigners for the purpose of recreation, sightseeing, casual visit to meet friends/relatives, attending a short-term Yoga Programme, short term courses on local languages, music, dance, arts & crafts, cooking, medicine etc. which should not be a formal or structured course/programme (courses not exceeding 6 months duration and not issued with a qualifying certificate/diploma etc.) and voluntary work of short duration (which do not involve any monetary payment or consideration of any kind in return.

The foreigner visiting the country on the strength of a Tourist Visa is not required to get himself registered with any FRRO/FRO if his stay period

is less than 180 days.

Missionary Visa:

This visa is granted to a Foreigner and their dependents whose purpose of visiting the country is for any Missionary work for approved organisations or Religious work.

At the time of requesting for this visa, the Foreigner has to disclose the purpose of his visit as a Missionary for any approved organisation or a Religious work and details thereof. Generally, this visa is granted for a short period (less than 180 days) and so, the foreigner is not required to get himself registered.

If any Foreigner is found indulging in any activity that is different from the specific purposes defined in the category of his visa, his visa is cancelled and he is asked to leave the country immediately/as soon as possible.”

4. When any foreigner enters India on tourist visa, he/she is registered only at entry point and exit point; however, his/her domestic travel is not tracked throughout his/her stay.

5. It would be relevant to note that any person entering India on tourist visa is not permitted to indulge into any religious activities much less any religious congregation being attended and the same can be considered to be violation of visa granted to such foreigner. In case of any visa violation, the action can be taken against such foreigner upon it being brought to the notice of the authorities which includes penal proceedings as also deportation with immediate effect.

6. It is submitted that around 2000 TJ workers have participated in congregation in Nizamuddin, New Delhi.

7. It is submitted that Government of India is committed to identify, isolate and quarantine COVID-19 positive TJ workers in India post their congregation in New Delhi. Under direction of the Union Home Minister, MHA, details of TJ workers in India were shared with all States on 21st March, 2020 after COVID-19 positive cases surfaced in Telengana.
8. So far, 1339 TJ workers have been shifted to Narela, Sultanpuri and Bakkarwala quarantine facilities as well as to hospitals. The State police are instructed to examine visas of all these foreign TJ workers and take further action in case of violation of visa condition.
9. The said swift action was taken with a view to identify, isolate and quarantine the TJ workers who might be COVID-19 positive. The said advisory and certain details were reiterated to all State DGPs on 28th and 29th March, 2020.
10. The State police would be examining categories of visas of all these foreign TJ workers and take further action for any violation of visa condition.
11. It is submitted that on 21st March, 2020, approximately 824 foreign TJ workers were in different parts of the country for missionary work, over and above 216 foreign nationals staying in the Markaz. In addition, around 1600 India TJ workers were also staying in Markaz, while 2100 Indian TJ workers were touring different parts of the country for missionary work.
12. Since 23rd March, 2020, lockdown has been strictly imposed by the local authority/police across Delhi, including in and around Nizamuddin, public work came to a halt.
13. It is submitted that on 28th March, 2020,

Ministry of Home Affairs through its internal security department has issued communication to the Chief Secretaries of all the States wherein, it is brought to the notice of every State through Bureau of Immigration by various circulars to all FRROs to undertake medical screening of all foreign nationals belonging to China, South Korea, Malaysia, Vietnam, Indonesia and Nepal and later on, for incoming passengers in India. The captured data of Indians and foreigners arrived from abroad has been shared with the State. It was also brought to notice of all the States that around 2000 foreigners on tourist visas from over 70 countries are spread all over the country for public work. Majority of these foreign nationals belong to Bangladesh, Indonesia, Malaysia and Thailand etc. The period of their stay in the country was upto 6 months. At TJ headquarters at Nizamuddin, New Delhi was reported to be in the process of calling the foreign public teams from different States and sending them back to their respective country. In such backdrop, it was advised to every State that each foreigner who is part of any public team, may be thoroughly screened in the context of COVID-19 and quarantined or hospitalized, if so required. If such foreigner is found to be COVID-19 positive, then he should be immediately deported by the first available flight and till such time, such person must be confined and quarantined by his host organization.

14. *The TJ headquarter is also cautioned not to allow any public activities through foreign nationals who have entered India on tourist visa.*
15. *The Hon'ble Apex Court has also taken up proceedings pertaining to public interest litigation on various issues where Central Government has filed a detailed report on actions taken by Central Government, which is duly recorded in the order dated 31.3.2020 passed in Writ Petition (Civil) no.468 of 2020. A copy of the order passed by*

Hon'ble Apex Court is annexed hereto along with the details status report filed by the Government of India.

16. *So far as details of TJ workers spread throughout the country are being gathered and compiled; however, the said exercise is dependent on the co-operation and accurate details being given by Tablighi Jamaat Headquarters are Nizamuddin, New Delhi and as and when the same is available, the same would be shared with the concerned State immediately.*

17. *It is submitted that the above-referred submissions may be taken into consideration by this Hon'ble Court while passing any further necessary order/direction in the matter."*

7. According to the aforesaid Note, there were Clerics/Preachers of the said religion approximately 2000 who had travelled from different countries all over the world possibly infected with the Corona Virus and have passed on the infection to others participating in the congregation, which started in Delhi sometime in the second half of February, 2020 and has continued till last week of March, 2020.

8. Shri Vyas, learned Assistant Solicitor General of India submitted that these foreign nationals have entered India and have been a part of the Tablighi Jamaat as Preachers. It is further submitted that these foreign

nationals have entered the country on Tourist Visas as against Missionary Visas. According to him, Missionary Visas are location and event specific and entail thorough scrutiny. Further, as per his say the Ministry of Home Affairs has identified such foreigners and necessary steps are being taken with due diligence.

9. Shri Devang Vyas, learned Assistant Solicitor General further sought time to submit a detailed status report on the above aspect after further instructions are received.
10. There is one more aspect to be considered. In our order dated 20th March, 2020, in particular paragraphs 31 to 33, certain directions were issued, which are reproduced below:-

“31. Since the spread of Corona Virus is contagious, gathering of large numbers has to be strictly avoided without fail. If people out of their sentiments continue to gather in large number at places of worship, the entire efforts to take precautionary measures for the spread of COVID-19 would be frustrated.

32. *We would therefore request one and all to refrain from visiting their places of worship and offer their prayer/puja/service from home instead of gathering at the place of worship.*

33. *The Government may also take an appropriate decision in this regard and issue necessary circular to all the District Magistrates/Commissioners of Police and Superintendents of Police of all the districts and quarters of the State of Gujarat to ensure that no gathering takes place at any of the places of worship in the State. We however do not mean that the daily puja/aarti/service/offering of prayer (namaz) may be stopped in such places of worship but the management of all the religious places of worship may perform it without making it open to public.”*

11. In brief, the direction to the State Government was to ensure that no gathering takes place in all the places of worship in the State with a rider that the above observation would not mean that daily puja/aarti/service/offering of prayer (namaz) in these places of worship is to be stopped but that the same

would be carried out by the respective managements without making such places open to public. The Court had made an appeal to one and all to avoid such religious gatherings and stay at home.

12. Today Shri Kamal B. Trivedi, learned Advocate General has assured that the above directions would be strictly followed and adhered to without any exception.

13. In view of the above, we issue the following directions:

(a) The Union of India in its report will provide complete information to the State of Gujarat and to the Court in a sealed cover available with them of all those persons irrespective of their nationality who were party to Tablighi Jamaat and have entered State of Gujarat by giving the following details:-

(i) Details of the Nationality, purpose of visit and nature of Visas of those foreign nationals who have attended the said congregation and have now entered the State of Gujarat.

(ii) The Union of India shall also specify how many

individuals of the aforementioned list have been identified belonging to State of Gujarat and the steps taken qua them to prevent the spread of COVID-19 Virus in case they have been detained in Delhi.

(iii) The Union of India shall also provide details as to various advisories and communique issued by the Ministry of Home Affairs/External Affairs as applicable.

(b) The State Government in its report will provide the following details:-

(i) Details shared by the Union of India with the State of Gujarat and the steps taken by the State of Gujarat with regard to identifying those individuals who have attended the congregation and as a consequence are exposed to the Virus.

(ii) Quarantine, testing and other steps taken by the State in regard to such persons.

(iii) The State shall also provide details of those people who have been untraceable, if any.

(iv) Steps taken for the implementation of the restrictions that may have been imposed by the State with respect to gatherings at all worship places such as Temples,

Churches, Gurudwaras, Mosques and strict compliance thereof.

14. We make it very clear that in the event the report as required to be submitted by the previous order of 27th March, 2020 and as directed by this order are not found to be satisfactory on the next date of hearing, the Court will issue necessary directions and may proceed to take such coercive measures as may be deemed appropriate.
15. We leave it open to the State to take all measures preventive or coercive as may be deemed necessary to carry out not only the guidelines and directions issued by the Central Government, the State Government but also by this Court in order to effectively contain and prevent the deadly Virus from spreading any further.
16. Let this order be placed on record and the matter at hand be listed on 3rd April, 2020, to be taken up at 11.00 am as already directed vide order dated 27th March, 2020.
17. Registry to send copy of this order to all concerned including print and digital media today itself by fax,

email, WhatsApp or by special messenger.

(VIKRAM NATH, CJ)

A.M. PIRZADA

(ASHUTOSH J. SHASTRI, J)

