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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(C) 3016/2020

AMIT BHARGAVA Petitioner
Through: Ms. Shyel Trehan, Ms. Bhagya
K. Yadav and Mr. Kshitij Dua,
Advs.

versus

THE STATE (NCT OF DELHI) Respondent
Through: Ms. Shobhana Takiar, Advocate

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

% **J U D G M E N T (O R A L)**

11.05.2020

1. This matter has been taken up for hearing by video conferencing.

2. The petitioner, undisputedly, came, on 24th March, 2020, in contact with a person, who was home delivering pizzas and who, subsequently, tested positive for the COVID-2019 virus, on 14th April, 2020.

3. According to the averments in the writ petition, the petitioner was placed under home quarantine, *vide* notice dated 15th April, 2020, for the period 24th March, 2020 till 20th April, 2020, i.e. for a period of

28 days. Subsequently, *vide* a second notice, dated 17th April, 2020, the period of home quarantine of petitioner, was renotified as 14th April, 2020 to 28th April, 2020.

4. The said period has expired.

5. During the currency of the aforesaid period of quarantine, the petitioner was issued a warning notice, dated 20th April, 2020, which reads thus:

“OFFICE OF THE DISTRICT MAGISTRATE (SOUTH)
GOVT. OF NCT OF DELHI
M.B. ROAD, SAKET, NEW DELHI-110068
PH:011-29535025 EMAIL: dcsouth@nic.in

F.No. 17/SDM/HK/Misc/2020/784-86

Dated: 20/4/2020

WARNING

To,

Sh. AmitBhargava
B-5/44, Azad Apartments, Sri Aurobindo Marg,
New Delhi – 110016

**Sub: CORONAVIRUS HOME QUARANTINE –
ISSUING OF WARNING FOR NOW
FOLLOWING THE NORMS FOR
CONTAINMENT OF COVID-19**

You were directed to remain in quarantine upto 28.04.2020. It has been observed that you are not following the norms of house Quarantine effectively and posing as a potential threat to the people living around you.

It is to inform you that disobedience in following/observing any legal order at this juncture of Corona Pandemic, as advised, may attract penalties including

provisions under the National Disaster Management Act, 2005, Epidemic Disaster Act 1897 and Indian Penal Code.

It is pertinent to mention here that if any violation of aforesaid direction shall be reported, then strict action shall be taken for violation of relevant provisions of National Disaster Management Act 2005, Epidemic Disaster Act 1897 and Indian Penal Code.

This is your final warning. Kindly Self Quarantine yourself for the benefit of your own health and those around you.

REMAIN AT HOME. BE A HERO

Sd/-
(MANOJ KUMAR BHARTI)
EXECUTIVE MAGISTRATE
DEPUTED FOR SPECIAL DUTY WITH SDM (HAUZ
KHAS)
District – South

Copy to:

1. PA to DM (South), M.B. Road, Saket, New Delhi for information.
2. The SDM (HauzKhas), M.B. Road, Saket, New Delhi – 110068”

6. On the last date of hearing, Ms. Shyel Trehan, learned counsel for the petitioner, advanced the following three submissions:

(i) The warning notice, dated 20th April, 2020, was completely false on facts. There had been no violation, by her client, of the home quarantine imposed on him.

(ii) Despite the expiry of the period of home quarantine on 28th April, 2020, the officials of the respondent had directed the petitioner to continue to remain quarantined till the notice of

quarantine, affixed on his premises, was removed.

(iii) The period of quarantine was not in conformity with the applicable guidelines on the issue, specifically, the “Guideline for Home Quarantine” issued by the Directorate General of Health Services (DGHS) 14th March, 2020 and the Delhi Epidemic Diseases, COVID-2019 Regulations, 2020 (hereinafter referred to as “the 2020 Regulations”).

7. Incidentally, the writ petition also prays for a direction, to the respondent, to formulate a policy to enable people, in home quarantine, to access private laboratories, for COVID-2019 test. However, on the last date of hearing, i.e. 29th April, 2020, I had opined, following the *State of Himachal Pradesh v. Satpal Saini*¹, that the said prayer was not maintainable as this Court, in exercise of its power under Article 226 of Constitution of India, does not direct framing of policies.

8. Notice was, therefore, issued on the writ petition, limited to the remaining prayers, which, for ready reference, may be reproduced thus:

“ In the premises and circumstances set forth hereinabove and in the interest of justice and equity, it is, therefore, most respectfully prayed that this Hon’ble Court may be graciously pleased to:

- a) Issue an appropriate writ, direction or order quashing the Home Quarantine Notice & Second

¹ (2017) 11 SCC 42

Home Quarantine Notice arbitrary, as they have imposed a quarantine period of over 30 days from the date of contact on the Petitioner, which is not contemplated by law;

b) Issue an appropriate writ, direction or order quashing Warning Notice dated 20.04.2020 issued by the District Magistrate (South), Govt. of NCT of Delhi as being violative of the principles of natural justice and the principle of *audi alteram partem*;

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xxx

d) Issue an appropriate writ, direction or order directing Respondent to appropriately amend the format of its Home Quarantine Notice to reflect date of contact with infected person/ reason for quarantine, date and time of imposition of quarantine and date and time for end of quarantine.

e) Issue an appropriate writ, direction or order directing Respondent to clarify for the benefit of public at large whether home quarantine measures for people having exposure to a COVID-19 positive patient is to be 14 days from exposure, or 28 days from exposure.

f) Pass any such further order(s), as this Hon'ble Court may deem fit and proper."

9. A counter-affidavit has been filed by the respondent-Government of NCT of Delhi (GNCTD).

10. The respondent has, in the first instance, placed reliance on Sections 73 and 74 of the Disaster Management Act, 2005 and on Regulation 19 of the 2020 Regulations. Thereafter, there is a detailed discussion on the COVID-2019 pandemic and the challenges being faced by the Government in containing, and in controlling, the same.

11. Apropos the specific challenges of the petitioner, the counter affidavit avers thus:

(i) On 24th March, 2020, when the infected pizza delivery boy delivered pizza to the petitioner, the entire nation was under lockdown. It could not, therefore, be said that the petitioner had been placed under home quarantine from the said date, at that time.

(ii) Subsequently, when the pizza delivery boy tested positive with the COVID-2019 virus on 14th April, 2020, it was decided to place all persons, who had been in contact with him, under quarantine for a period of 28 days from the date of delivery, to them, of pizza. Accordingly, a home quarantine sticker, to the said effect, was pasted on the petitioner's premises.

(iii) Subsequently, the said sticker was replaced on 17th April, 2020, with another sticker, placing the petitioner in home quarantine for 14 days with effect from the date when pizza delivery boy tested positive i.e. 14th April, 2020 till 28th April, 2020. This was done, as the petitioner was asymptomatic.

(iv) As such, there had been no infraction of the 14 day period stipulated for home quarantine in the applicable Guidelines. The fixation of the first sticker on 15th April, 2020, was intended to create awareness for people, who had come in contact with the petitioner to get themselves tested. The actual home quarantine

of the petitioner, as effected, *vide* the second notice dated 17th April, 2020, was in accordance with the prescribed guidelines, i.e. only for 14 days. The period of lockdown suffered by the petitioner prior thereto was a nationwide lockdown not specifically imposed on the petitioner.

(v) On 27th April, 2020, the petitioner was screened and found not to be suffering from the COVID-2019 virus. The sticker, affixed at his premises, thereafter, was removed.

12. Ms. Trehan, learned counsel for the petitioner, invites my attention to the concluding paragraphs of the Guidelines for Home Quarantine, dated 14th March, 2020 and Regulation 5(i) of the 2020 Regulations. These two provisions are, for ready reference, reproduced thus:

Guidelines for Home Quarantine dated 14th March, 2020

“Duration of Home Quarantine

a) The home quarantine period is for 14 days from contact with a confirmed case or earlier if a suspect case (of whom the index person is a contact) turns out negative on laboratory testing”

Regulation 5(i), 2020 Regulations

“5. All Hospitals (Government & Private) during screening of such cases shall record to ascertain history of travel of the person if he/she has travelled to any country or area where COVID-19 has been reported. In addition the history of coming in contact with a suspected or confirmed case of COVID-19 shall be recorded.

i) In case the person has any such history in last 14 days and the person is asymptomatic then the person must be kept in home quarantine for 14 days from the day of exposure”

13. Ms. Trehan submits that, these regulations, unmistakably, justify placing a person in quarantine only for a period of 14 days from the date on which the person came in contact with someone who was found to be COVID-2019 positive.

14. Her client, she points out, had come in contact with the aforesaid pizza delivery boy on 24th March, 2020. The period of 14 days, reckoned therefrom, expired on or around 7th April, 2020. There was, therefore, in her submission, no justification in placing the petitioner under home quarantine for 14 days with effect from 14th April, 2020. In fact, submits Ms. Trehan, the petitioner ought not have been placed under quarantine at all, as he had not tested positive within 14 days of his coming into contact with the aforesaid infected pizza delivery boy.

15. Arithmetically and logically speaking, Ms. Trehan may have a point. However, the COVID-2019 virus is, presently, not known to subscribe to the dictates either of arithmetic or of logic. The respondent has, apparently, calculated the period of 14 days, commencing 14th April, 2020, when the pizza delivery boy tested positive. The petitioner has not been placed under home quarantine, for a day beyond 14 days, reckoned from the date when the pizza delivery boy tested positive and from which date, therefore, he could be treated as a “confirmed case” of COVID-2019 infection – to

borrow the expression used in the Guidelines dated 14th March, 2020.

16. I deem it appropriate, in this context, to reproduce, *in extenso*, paras 6, 15 to 18, 25 to 30, 32 to 34, 36 and 38 of the counter affidavit of the respondent thus:

“6. That for proper, just and objective appreciation of the facts of the case the deponent respectfully submits preliminary submissions as follows:

a) The disease caused by virus SARS-CoV-2 is named as COVID-19. The World Health Organization (**WHO**) declared 2019-20 coronavirus outbreak a Public Health Emergency of International Concern (**PHEIC**) on 30th January 2020 and a pandemic on 11 March 2020.

b) It is pertinent to mention that current **estimates** of the incubation period of COVID range from 2-14 days, and these estimates will be refined as more data become available. Due to paucity of scientific literature based on community based studies it is estimated. At this time all over the world even many of the crucial epidemiological information particularly source of infection, mode of transmission, period of infectivity, etc. are still under investigation.

c) The Hon'ble Prime Minister of India keeping in mind all the above facts and circumstances announced 'Janta Curfew', as a measure of social distancing to fight 'COVID 19' which was observed on 22.03.2020. In the present times of acute crisis because of which the entire country is facing a lock-down of 21 days which is further extended beginning from 25th March 2020, it is the time for the people of India to do handholding with the government, and not to come up before the Court by filing frivolous petition, rather Home Quarantine should be a voluntary act of the petitioner under such a grim situation for his own safety and benefit as well as for the entire society.

d) It is also worth mentioning that in a state of lock-down and social distancing, the Government employees (the respondent) of various departments falling under essential services like police, medical and health, food and civil supplies, labour and employment, finance, etc., are working day and night to deal with crisis risking their life, and at this juncture any litigation which is found to be motivated or sponsored or for personal gains for popularity or any vested interest, or frivolous should be dealt with firmly by this Hon'ble Court.

e) It is pertinent to mention that the Central Government and the State Governments including GNCTD, the respondent in furtherance of their commitment to attend to the welfare of the people of India to provide sustenance to one and all are taking extra-ordinary measures, both in accordance with law, protocols as per the situation and terms of policy decisions needed at this critical time as also spending huge amounts from the public exchequer. Dozens of restrictions and relaxations have been announced to accommodate one and all whose survival may be at stake. In the present scenario the restrictions as imposed by the Central and State Government on citizens under the Epidemic laws are not the arbitrary action of the State or infringing any fundamental rights of a citizen of India.

f) It is submitted there is war-like situation in whole country and every government official of the respondent including Doctors are working round the clock to save the nation from the Global Pandemic of Corona Virus Disease. **COVID-19** is an infectious disease caused by severe acute respiratory syndrome coronavirus 2 (**SARSCoV-2**). As on April 27, 2020, more than 3.04 million cases have been reported across 185 countries and territories, resulting in more than approximately **2,07,100** deaths. More than 27,000 approximately cases have been reported in India so far.

g) It is submitted that in the absence of proven drug or vaccine, non-pharmaceutical interventions is

the main stay for containment of COVID-19 cluster. Preventive public health measures are for adoption of community-wide practice of frequent washing of hands and respiratory etiquettes. The testing continues till 14 days from the date the last confirmed case is declared negative by laboratory test.

h) Under non-pharmaceutical interventions, Quarantine and Isolation are important mainstay of cluster containment. These measures help by breaking the chain of transmission in the community.

i) Quarantine refers to separation of individuals who are not yet ill but have been exposed to COVID-19 and therefore have a potential to become ill. There will be home quarantine/ facility quarantine of contacts of suspect/ confirmed cases. The guideline on home quarantine available on the website of the Ministry provides detailed guidance on home quarantine which is annexed by the petitioner and is available at page - of the paper book. The contacts advised quarantine will undergo risk profiling.

Those above 60 or with comorbidities will be shifted to designated quarantine facility. This will help identify early development of symptoms among them, their testing and shifting to isolation facility under para 9.

j) Isolation refers to separation of individuals who are ill and suspected or confirmed of COVID-19. There are various modalities of isolating a patient. Ideally, patients can be isolated in individual isolation rooms or negative pressure rooms with 12 or more air-changes per hour.

k) That as per the existing Acts/ Rules the Home Ministry has delegated the powers under Disaster Management Act, 2005 [Section 10 sub-section 2 clauses (i) and (l)] to Secretary (Health and Family Welfare) to act in such a way to contain or control the outbreak. States may invoke the provisions under Disaster Management Act, 2005 or under the Epidemic Act, 1897 to delegate powers to identify authority to act in such a manner to control or contain the outbreak.

1) Indian Penal Code under sections 270 provides power to act against those indulging in spread of disease. Section 144 of the Code of Criminal Procedure, when invoked, prohibits gathering of people.

15. In addition it is further submitted that the current **estimates** of the incubation period of COVID range from 2-14 days, and these **estimates** will be refined as more data become available. Due to paucity of scientific literature based on community based studies it is **estimated**. At this time even many of the crucial epidemiological information particularly source of infection, mode of transmission, period of infectivity, etc. are still under investigation. Virus, SARS-Co V-2, primarily spreads between people during close contact. The spread may be possible before symptoms appear and in later stages of the disease.

16. Hence, keeping in view the above facts and circumstances under the regulations and protocol established, consequent upon such inquiry, inspection, examination or otherwise, Surveillance Personnel has reason to believe or suspect that such a person could be infected with COVID-19, the Surveillance Personnel may direct/arrange to put that person(s) in home quarantine or direct/escort that persons(s) under 'Institutional Quarantine Facility' or 'Isolation Facility'.

17. In the present case for safer side as per regulation and protocol the Petitioner was kept under Home Quarantine from the date of positive test of COVID-19 of the delivery boy. Prior to that the petitioner was under lockdown but was not in quarantine as such he was in touch with others.

18. It is pertinent to mention that in these difficult times where there is a perpetual tiff between saving lives and catering to individual rights is concerned; the former stands to gain all importance. At all levels the administration ensure that petitioner's individual rights are not encroached but as the situation demands the greater good has become the prime objective. Governance cannot function effectively without an active support of its subjects. The irony of the situation is

such that not only does the petitioner's efforts ensure his good health, a little carelessness may lead a number of persons to its doom. Medical teams already have their hands full and are constantly handling immense pressure.

25. At this juncture it is relevant to state that the district administration along with the Health authorities has been rigorously working without any delay in ensuring that no case is left unchecked. Multiple teams have been assigned with keeping a record of quarantined homes, number of persons screened, cases who travel to another districts for carrying out their designated essential duty, thorough examination of Institutional Quarantined cases, attending to complaints received 24x7, supply of medical and essential groceries to those in need, maintaining law & order, and keeping a track of suspected cases.

26. Currently, there is no vaccine or specific antiviral treatment for COVID-19. As stated above management involves **isolation, experimental measures, maintaining physical distance from other, social distancing or rather Home Quarantine for the good.**

27. Preventive measures to reduce the chances of infection include staying at home, avoiding crowded places, social distancing, restricting travel and avoiding engaging with people outside from home. That, as per the guidelines issued by Ministry of Health & Family Welfare, DGHS, (EMR Division), a contact is defined as a healthy person that has been in such association with an infected person or a contaminated environment as to have exposed and is therefore at a higher risk of developing disease. It is submitted that a provision has been made for home quarantine of specified persons to prevent further spread of the disease. As stated above Home Quarantine and Isolation are important mainstay of cluster containment. These measures help by breaking the chain of transmission in the community.

28. That, the district administration of the respondent is engaged in identifying containment zones while carrying out extensive medical screening of such areas, which includes a large number of health personnel and civil authorities together

at one place. As the lockdown is still in progress, the administration has to ensure proper food distribution to those in need, keep a check on shelter homes, attending to emergency calls, initiating active and passive surveillance of COVID-19 cases, banning entry and exit of population from the containment area, taking note of individual cases at priority and the execution of the quarantine or screening, whichever is required as per the ground report.

29. That, the medical team engaged for listing the cases is under much pressure as even a single cases left untraced may turn an entire locality into a hotspot. There are umpteen number of precautions that are to be dealt with by the medical teams in addition to which they are already facing their share of challenges every second of the day. This is in the light of WHO list of considerations, one being reproduced here as "*Cultural, geographic and economic factors affect the effectiveness of quarantine*".

30. That, in view of the above facts, it is submitted that this Hon'ble court may be pleased to consider that District South has a population density of approx. 24,000 persons per sq.km. Further, as per due suggestions received from the concerned medical team, the petitioner fell under the category of Home Quarantine. Therefore, it was acquiesced to put the contacts of the said Sh. Akash Pandey under Home Quarantine for a period of 14 days w.e.f. the date of test result of Sh. Akash Pandey, that turned out positive.

32. In view of the above, it may please be noted that one of the prime objective is to trace each and every case and run immediate measures to control the disease, in this case, and make sure that the spread be limited to zero. This has to be done with the advice of various local authorities, medical teams, surveillance teams, food distribution teams, and screening teams. As screening and deep surveys are currently going on in the local areas, it is not possible to assign the medical and local authority staff at each individual case. Therefore, in light of proper containment of this disease, it has been decided to Home Quarantine such cases which have even the minimum of contact history.

33. That, WHO in its list of Considerations has stated that "*WHO continues to monitor the situation closely for any changes that may affect this interim guidance.*" Therefore, it may kindly be considered that a specific and rigid form of preventive measures may cause lacuna in containing the spread of coronavirus 2 (**SARS-CoV-2**). Hence, the decision to put the contacts of Sh. Akash Pandey under Home Quarantine for duration of 14 days was asserted w.e.f. date of result of Sh. Akash Pandey in order to boost containment of the disease.

34. That, "Home Under Quarantine" notice is pasted as per the contact history tracing and information of exposure received from the authorities. It is submitted that in the process of keeping the petitioner safe, the pasting of HQ notice was highly in his own interests. **The fact that 69% of total positive cases in India had an asymptomatic history, may be given top priority.**

36. That the respondent respectfully submits and humbly wants to bring it to the knowledge of this Hon'ble Court that many of the Areas in the city of Delhi have been completely sealed due to lockdown and particularly in this case, 72 other houses has been put under quarantine and pasted with HQ Quarantine Stickers. But rest of the public from South Zone District is appreciating the efforts and is cooperating with the officials of the district but the petitioner is having problems with the Department and also trying to hinder the working of Respondent Officials as the same are working round the clock for the welfare of General Public.

38. Lastly it is submitted that the Respondent has weighed all the pros and cons before taking the decision. Petitioner's wisdom cannot be substituted for the wisdom of the Administration during this crisis. Maintaining social distance in the nature of Home Quarantine for 14 days as mentioned above is a *sine qua non* to control the disease. It is submitted accordingly."

17. This Court entirely endorses the sentiments expressed in the afore-extracted passages from the counter affidavit filed by the respondent. Tackling the COVID-2019 pandemic is a challenge, the scale of which has not been seen during the lifetime of any of us and, hopefully, would not be seen hereafter either. There can be no doubt about the proposition, in law, that, while tackling the challenge, civil and constitutional rights of citizens cannot be compromised. However, while examining whether, in a particular case, such compromise has, or has not, taken place, it is as much incumbent on the citizen, as on the Court, to adopt an approach which is not hyper-legalistic, but is pragmatic and practical, and would not disturb the efforts to tide over the pandemic, in which efforts, rewardingly, the nation has come together as a whole. Certain inconveniences, and difficulties are bound to arise in the process. It is incumbent, on each one of us, to contribute our efforts in this direction, and to forbear from rushing to Court, at the drop of a hat. Of course, were the efforts, to battle the COVID-2019 pandemic, to actually breach any civil or constitutional rights of citizens, it would be the duty of the Court to step in and remedy the situation.

18. *In the opinion of this Court, the period of 14 days, stipulated in the afore-extracted provisions in the Guidelines of 14th March, 2020 and the 2020 Regulations is not mandatory, but is intended to serve as a general guideline. As of today, there is no certainty of opinion, regarding the extent of virulence of the COVID-2019 virus, its actual period of gestation, the period taken for symptoms, in an infected person, to manifest themselves, or the period for which a person, once*

infected, remains a potential source of infection to others. The medical community, the world over, is yet to come to grips with this virus, and isolate its individual characteristics.

19. *In this background, this Court is unwilling to hold that in each and in every case, the period of home quarantine must stand limited to 14 days, and no more.*

20. At the same time, keeping a person under unjustified home quarantine also has deleterious civil consequences.

21. Keeping in mind the competing interests of public interest and individual prejudice – of which, needless to say, the former must be accorded precedence – and the desirability of ensuring smooth and unhindered efforts, by the executive administration, to tackle the COVID-2019 pandemic, this Court is of the opinion that, at this juncture, the interests of justice would be abundantly protected by a direction, to the effect that if any person, *who does not display COVID-2019 symptoms, and has not tested positive for the COVID-2019 virus, is home quarantined for over 14 days, he shall have a right to represent to the authorities against such continued quarantine and, if he so represents, the authorities would be bound either to lift the quarantine forthwith, or to explain, to the person concerned, as expeditiously as possible and without any undue delay, the reason for keeping him in home quarantine for over 14 days.*

22. Needless to say, should the person continue to be aggrieved, the

right to seek legal redress would remain preserved.

23. These directives, if followed, would, this court is sanguine, substantially reduce litigation, by persons who claim to be aggrieved on account of prolonged home quarantine.

24. Ms. Trehan has also expressed concern about the fact that the first notice, dated 14th April, 2020, whereby the petitioner was placed under home quarantine, did not indicate the date of contact, by her client, with the pizza delivery boy. She, therefore, prays that the respondent be directed to incorporate, in all like notices of home quarantine to be issued in future, the date of contact, by the person concerned, with the infected individual.

25. This Court does not deem it appropriate to issue any such direction. There are various grounds on which a person may be placed under home quarantine, not all of which are necessarily relatable to her, or his, having come in contact with a person who tested positive for the COVID-2019 virus. Besides, public disclosure of the date of contact, in every case of such contact, may not be practically feasible. In any event, this Court is not convinced that public interest would warrant mandating such disclosure.

26. However, all notices, placing persons under home quarantine, have necessarily to indicate the period of home quarantine, as well as the date from which it is to commence.

27. Ms. Trehan has also pointed out that persons, who are under home quarantine, are unaware of the officer, who is required to be contacted, should any exigency arise during the period of home quarantine.

28. Ms. Shobhana Takiar, learned counsel appearing for the respondent, submits, in response thereto, that a helpline number, on which persons, in home quarantine, can establish contact with the Ministry/Departments, would be displayed on the official website of the Government of NCT of Delhi (GNCTD).

29. The GNCTD is directed to ensure that this is done forthwith.

30. The writ petition also ventilates a grievance against the Warning Notice, dated 20th April, 2020, issued to the petitioner, which already stands extracted hereinabove.

31. In my view, this grievance is not amenable to adjudication in writ proceedings.

32. In its counter-affidavit, the GNCTD has annexed a complaint, dated 18th April, 2020, from the Housing Society in which the petitioner resides, addressed to the DM (South), in vernacular. On the basis thereof, it appears that two warnings, dated 20th April, 2020 and 23rd April, 2020, were issued, to the petitioner, by the District Magistrate. In this scenario, this Court forbears from expressing any opinion on the warning given to the petitioner, as it involves a

disputed issue of fact. In any event, no serious civil consequences can be said to have visited to the petitioner, as a consequence of the said Notice, especially given the tenor thereof.

33. This Court, therefore, refrains from expressing any opinion, thereon, in the present case.

34. The submission, of Ms Trehan, to the effect that the Warning Notice dated 20th April, 2020, was issued in violation of the principles of natural justice, and that, prior to the issuance thereof, the petitioner should have been visited with a Show Cause Notice, in my view, merits outright rejection. The notice dated 20th April, 2020 was merely a notice issued pursuant to complaints against the petitioner, and directing him to desist from breaching the quarantine imposed on him. It did not propose any action against the petitioner, civil or criminal. No serious civil consequences can, therefore, be said to have ensued to the petitioner, as a result of the issuance thereof.

35. Besides, it would be eminently inimical to public interest, to direct that every person, found to have breached the quarantine or the lockdown, was required to be issued a Show Cause Notice even before issuance of a warning to him, to desist from doing so. Besides the fact that the law does not require issuance of any such notice before issuing a warning, any such mandate, if issued, would have the potential of seriously derailing the efforts, of the executive administration, to enforce discipline during the period of lockdown/quarantine.

36. Needless to say, of course, were the warning to be followed by any civil or criminal action, adverse to the alleged violator of the quarantine/lockdown, such action would have, necessarily, to conform to due process, as ordained by law in that regard.

37. One is reminded of the following aphorism delivered by the Supreme Court², albeit in the context of economic policy and its implementation by the executive:

“It needs no emphasis that complex executive decisions in economic matters are necessarily empiric and based on experimentation. Its validity cannot be tested on any rigid principles or the application of any straitjacket formula. The Court while adjudging the validity of an executive decision in economic matters must grant a certain measure of freedom or play in the joints to the executive.”

In formulating, and implementing, its policy to deal with the COVID-2019 pandemic, which has befuddled the entire global community, the executive administration is, similarly, traversing uncharted territory. The executive must, in such a circumstance, be afforded the requisite play in the joints, so as to formulate, and implement, its policy, as meaningfully and efficiently as possible. Absent any legal or constitutional infraction, therefore, Courts have necessarily to be slow in subjecting executive action, taken in the context of the COVID-2019 crisis, to searching judicial scrutiny.

38. Subject to the above observations and clarifications, this writ

² Vasavi Engineering College Parents' Assn v. State of Gujarat, (2019) 7 SCC 172

petition is disposed of, with no orders as to costs.

MAY 11, 2020

dsm

C.HARI SHANKAR, J