

**IN THE HIGH COURT OF DELHI AT NEW DELHI****W.P. (CRL) NO.838/2020****IN THE MATTER OF:****MOHAMMAD JAMAL & ORS.****....PETITIONERS****VERSUS****UNION OF INDIA & ORS.****....RESPONDENTS****Dated-25.05.2020****MOST RESPECTFULLY SHOWETH****BRIEF FACTS**

1. That on 31.03.2020, SHO Police Station Hazrat Nizamuddin gave a written complaint to DCP Crime Branch, wherein he stated that in exercise of the powers conferred under The Epidemic Diseases Act, 1897, the Government of NCT of Delhi, Health & Family Welfare Department, had issued detailed regulations for COVID-19 (Corona Virus Disease - 2019) dated 12.03.2020. Any person / institution / organization found violating any provision of the regulations was to be deemed fit to have committed an offence punishable under section 188 of Indian Penal Code (45 of 1860). The regulations were to come into force immediately and to remain valid for a period of one year from the date of publication of the notification. Further, on 16.03.2020, the Government of NCT of

Delhi, Health & Family Welfare Department issued directions that all events, socio / cultural / political / religious / academic / sports / seminar and conferences (except marriages), were to be restricted to a maximum of 50 persons in the NCT of Delhi till 31st March, 2020.

2. That on 21.03.2020, the authorities of Markaz at Tablighi Jamaat Headquarters, were contacted by Delhi Police. One Mufti Shahzad was apprised of the situation arising out of the spread of COVID-19 and was asked to take immediate action for preventing the spread of this disease. He was directed to send the foreigner devotees back to their respective countries and other Indian persons to their respective native places. However, no one paid any heed to the lawful directions of Delhi Police. Moreover, an audio recording purportedly by Maulana Mohd. Saad, head of the Tablighi Jamaat, was found in circulation on whatsapp on 21.03.2020, in which the speaker was heard asking his followers to defy the lockdown and social distancing and to attend the religious gathering of the Markaz.

3. That in view of the world wide pandemic spread of the highly infectious Corona Virus (Covid-19) infection, the Govt. of India had ordered a complete lock-down for the entire country on 24.03.2020, for a period of 21 days, w.e.f. 25.03.2020. ACP/Lajpat Nagar, New Delhi promulgated Prohibitory Orders under 144 Cr.P.C. on 24.03.2020, thereby restricting social / political / religious gathering in the area and to take safety measures by following social

distancing for prevention/treatment i.e. Home Quarantine/Isolation etc.

4. That the menace and hazard of COVID-19 viral infection during large gatherings was verbally conveyed to Maulana Mohd. Saad and the management of Markaz on several occasions, including during meetings held in the police station in this regard. The meeting in the police station was taken by the SHO on 24.03.2020 and was attended by members of Tablighi Jamat Markaz Management. However, Maulana Mohd. Saad and the Markaz Management did not inform any Health Department or other Government Agency about the huge gathering inside the Markaz. They deliberately, willfully, negligently and malignantly disobeyed the lawful directions promulgated in this regard. Written notices were also issued to Maulana Mohd. Saad and the Markaz Management. However, they refused to pay any heed. The premise was inspected by SDM/Defence Colony on various dates, between 26.03.2020 and 30.03.2020.

5. That around 1300 devotees from various States as well as Foreign Countries, were found residing in the premise without maintaining any social distance with each other. No one was seen following the directions such as use of facial mask, hand sanitizers etc. Maulana Mohd. Saad, others named above and the management of Markaz had deliberately, willfully, negligently and malignantly committed acts which were in direct contravention to the lawful directions of the Government and public servants as

mentioned above. That Maulana Mohd. Saad, others had allowed a huge gathering to assemble inside a closed premise, over a protracted period of time, without any semblance of social distancing or provision of masks and sanitizers and have thereby caused a situation where a highly infectious disease such as Corona Virus (Covid-19) infection may spread and threaten the lives of the inmates and the general public at large.

6. That in view of the above, SHO Police Station Hazrat Nizamuddin requested the Crime Branch to take necessary action as per law against Maulana Mohd. Saad, others of Markaz, Basti Hazrat Nizamuddin for their unlawful acts as mentioned above.

7. That accordingly, a case vide FIR No. 63/2020 dated 31.03.2020 u/s 3 of The Epidemic Diseases Act, 1897, r/w section 51/58(1) of the Disaster Management Act, 2005 r/w sections 188/269/270/271/120B of the IPC was registered at PS. Crime Branch and investigation was taken up by the Crime Branch. During investigation, sec 14 (b) Foreigners Act r/w sections 308/304 IPC was also added to the case.

8. That a large number of foreigners were found to have travelled to India, who took part in activities related to Tablighi Jamaat in Nizamuddin Markaz. More than 900 such foreigners have already been joined in the investigation in this case. The investigation has also revealed that most of these foreigners had arrived on a Tourist Visa or eVisa.

9. That section 14 of Indian Foreigners Act 1946 provides for penalty for contravention of provisions of the Act, etc. — whoever. —

(a) *remains in any area in India for a period exceeding the period for which the visa was issued to him;*

(b) *does any act in violation of the conditions of the valid visa issued to him for his entry and stay in India or any part thereunder;*

(c) *contravenes the provisions of this Act or of any order made thereunder or any direction given in pursuance of this Act or such order for which no specific punishment is provided under this Act, shall be punished with imprisonment for a term which may extend to five years and shall also be liable to fine; and if he has entered into a bond in pursuance of clause (f) of sub-section (2) of section 3, his bond shall be forfeited, and any person bound thereby shall pay the penalty thereof or show cause to the satisfaction of the convicting Court why such penalty should not be paid by him.*

10. That on 2nd April, 2020, the Union Ministry of Home Affairs (MHA) had blacklisted 960 foreigners, present in India on tourist visas, for their involvement in Tablighi Jamaat activities. Further, the MHA had also directed DGPs of all concerned States/UTs and CP, Delhi Police to take necessary legal action against all such violators, on priority, under relevant sections of the Foreigners Act, 1946 and Disaster Management Act, 2005. That Participation in Tablighi Jamaat by these foreign nationals who had entered India on Tourist Visa was in violation of the provisions of the Visa Manual 2019 and

as such the act made them liable to be prosecuted under section 14 of The Foreigners Act, 1946.

11. That according to Para 18 of Visa Manual, a Tourist Visa is granted to a foreigner whose sole objective of visiting India is recreation, sight-seeing, casual visit to meet friends or relatives, attending a short term yoga programme, short duration medical treatment including treatment under Indian systems of medicine etc. and no other purpose/ activity.

12. That according to Para 87, a Missionary Visa is granted to a foreigner whose sole objective of visiting India is Missionary work not involving proselytization. Visa shall NOT be granted to preachers and evangelists who desire to come to India on propaganda campaigns, whether on their own or at the invitation of any organization in India.

13. That the passports and copies of Visa Application Forms of these foreign Tablighi Jamaat participants clearly show that they had obtained Tourist Visa or eVisa to arrive in India. As per directions in Arnesh Kumar Vs State of Bihar & Anr in Crl. Appeal 1277 of 2014, all of these foreign nationals were served a Notice u/s 41.A CrPC. All of them gave an undertaking that they would not violate the conditions u/s 41(a) CRPC and abide by the terms of the notice. These foreigners were examined with the help of a Questionnaire. They have admitted in writing that they had arrived in India on a Tourist or eVisa.

14. That in order to substantiate the legitimacy of their visit to India, passports of 723 accused foreigners and Identity Cards of 23 accused Nepal Nationals have been taken into possession through seizure/handing over memos. Some of the accused foreign nationals were unable to provide / produce their passports. Efforts are being made to account for all the passports in this regard.

15. That it is pertinent to mention here that no one has been arrested in the case so far. No one has been detained by Delhi Police in this case. More than 900 foreign Tablighi Jamaat attendees, including the petitioners, have joined investigation of the case and were served notices u/s 41.A CrPC. The investigation itself is being conducted on a day to day basis and all efforts are being made to finalize investigation and submit a report u/s 173 CrPC before the Hon'ble Court in a time bound manner.

In view of afore mentioned facts and circumstances respectfully submitted herein, the undersigned undertakes to abide by any direction(s) which this Hon'ble Court may be pleased to pass.



(Dr. Joy Tirkey)  
Deputy Commissioner of Police  
Crime (HQ), Delhi  
25.05.2020