

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD**

**WRIT PETITION STAMP NO. 10606/2020**

Muzaffaruddin Khan S/o Zahiruddin Khan  
Age \_ 39 Years, Occu: Business,  
R/o : Azam Colony, Roshan Gate,  
Aurangabad

...Petitioner

**Versus**

1. The State of Maharashtra  
Through its Chief Secretary and  
Chairman, State Executive Committee,  
Maharashtra State Disaster Management  
Committee, Mantralaya, Mumbai-400032.
2. The Divisional Commissioner,  
Office of the Divisional Officer,  
Near Delhi Gate, Aurangabad - 431 001.
3. The Collector,  
Chairman, Aurangabad District  
Management Committee,  
Office of the Collector, Fazilpura,  
Aurangabad 431001
4. The Commissioner of Police,  
Office of the Commissioner of Police,  
Mill Corner, Aurangabad - 431 001.
5. Municipal Commissioner,  
Aurangabad Municipal Corporation,  
Aurangabad.

...Respondents

Shri Muhammad Assem, Advocate for petitioner  
Shri D.R. Kale, Government Pleader for respondents no.1 to 4  
Mr S.G. Chapalgaonkar, Advocate for respondent no.5

**CORAM : PRASANNA B. VARALE AND  
SHRIKANT D. KULKARNI, JJ.**

**DATE : 26<sup>th</sup> May 2020**

**PER COURT**

1. Heard the learned Counsel for the petitioner.
2. The petitioner, who is resident of the City Aurangabad has approached this Court raising the grievance against the oral instructions given by the Divisional Commissioner, Aurangabad by way of writ dated 15.5.2020 and 16.5.2020. Taking cognizance of the issue raised in the petition, this Court (Coram : V.L. Achliya, J.) by detailed order dated 19.5.2020 issued notice and the matter was extensively heard in presence of the Officers of the Revenue Department as well as the Municipal Corporation, Aurangabad. The respondent - Municipal Corporation submitted its response by way of affidavit-in-reply on 8.4.2020.
3. At the cost of repetition, we may state here that the grievance of the petitioner was in respect of the directions issued by the Divisional Commissioner, Aurangabad about the closure of the shops for stretch of five days except the medical shops. It was also grievance of the petitioner that there was no proper co-

ordination between the authorities before issuing of the order of closure of shops and such closure of shops for the stretch of period would result in an inconvenience and deprivation of essential commodities to the public at large. It may not be necessary for us to refer the details of affidavit-in-reply filed on behalf of Aurangabad Municipal Corporation. Suffice to say that the authorities namely, the competent authority, authorised Officer, Commissioner of Aurangabad Municipal Corporation, the District Collector, the Divisional Commissioner, considering the spread of pandemic in entire State of Maharashtra were required to take emergency measures in view of the various notifications issued by the Ministry of Home Affairs as well as the Government of Maharashtra.

4. It is also stated in affidavit-in-reply that essential establishments were permitted to operate upto 2.00 p.m. on each day. However, this restriction is found to be inadequate to achieve its purpose. It is also stated in the affidavit-in-reply that as there was alarming rise in the number of patients during 15<sup>th</sup> March 2020 to 9<sup>th</sup> May 2020, the meeting was convened on 14<sup>th</sup> May 2020. The meeting was attended by the authorised Officers. After due deliberation of all concerned, the decision was taken to

observe complete lockdown of three days with effect from midnight of 15<sup>th</sup> May 2020 and this decision was taken as a solution to breakdown the chain of growth of COVID-19. It is then stated in affidavit-in-reply that even though the order was issued of complete lockdown for three days by the authorised Officer by exercising the powers under the provisions of Maharashtra COVID Rules 2020 and other enabling provisions of law, there was considerable growth of the patients. As such, the complete lockdown was extended for further three days w.e.f. midnight of 17<sup>th</sup> May 2020 till midnight of 20<sup>th</sup> May 2020. Then, the affidavit-in-reply refers to the steps taken by the authorities so as to see that the supply of essential goods, milk etc. is continued and the statements to that effect read thus :

“10) I say and submit that, the Deponent has taken care to see that the supply of essential goods, milk, would continue to operate. Further, there is no prohibition on home delivery of food, food grains, groceries, vegetables. Even the system has been devised to provide ready to eat food items or food grains in the containment zones with help of social workers, politicians and NGO's. For every zone, the high rank officers assisted by requisite staff has been deployed to monitor supply of essential goods etc. to

the citizens. The Aurangabad Municipal Corporation has also established 24 hours call centers and helplines to promote access to the needy citizens. The large publicity is given to the aforesaid helpline numbers.

(Emphasis supplied)

11) I say and submit that the Aurangabad Municipal Corporation has established 24 hour control room and appointed nodal officers for providing necessary help to the citizens in the fight against COVID-19. (Emphasis supplied). Adequate measures are taken to handle the situation. Further, Aurangabad Municipal Corporation is well equipped to deal with any such situation.

5. It is further stated in the affidavit-in-reply that in view of the order dated 19<sup>th</sup> May 2020, direction is issued with effect from midnight of 20<sup>th</sup> May 2020, the shops and services regarding essential goods shall operate everyday from 7.00 a.m. to 1.00 p.m. It is then stated in affidavit-in-reply that in view of the order dated 19<sup>th</sup> May 2020, the grievance raised in the petition no more survives. The petition was heard by this Court on 22<sup>nd</sup> May 2020. The learned Counsel for the petitioner fairly submitted before this Court that grievance raised in the petition no more survives and submitted before this Court that the authority may consider for extension of time, on the backdrop of the fact that the extension)

of time may be in the interest of not only the consumers but also it may provide some more time for the shopkeepers for the cleaning of the shops and management of the shops.

6. The learned Counsel for the Municipal Corporation Mr Chapalgaonkar was also fair enough to consider the suggestion of the petitioner in a proper perspective and sought for some time so as to have a word with the authorities. Accordingly, the petition was adjourned till today.

7. The learned Counsel for the Municipal Corporation Mr Chapalgaonkar, on instructions, makes statement before this Court that the Officers/authorities would fix the time of the shops being opened for the general public from 7.00 a.m. to 2.00 p.m. everyday. Mr Chapalgaonkar, on oral instructions submitted before this Court that with due deliberations of the shopkeepers, merchants and traders, it is decided by the authorities that first half an hour to opening hour and the half an hour of the closing hour would be reserved for the shopkeepers so as to clean the shops and manage the shops.

8. The learned Counsel for the petitioner submitted before this Court that this arrangement takes care of the consumers as well

as the shopkeepers and as the authorities permitted opening of the shops on daily basis, the grievance raised in the petition no more survives. As the petition serves its purpose, we see no reason to keep petition pending in this Court and accordingly, petition is disposed of.

9. While disposing the petition, we must appreciate the positive response received from the learned Counsel Mr Chapalgaonkar appearing for the Aurangabad Municipal Corporation as well as other respondents-authority i.e. State of Maharashtra.

10. While disposing the petition, we may also put certain suggestions to the respondents-authorities. It is now common knowledge that we are faced with the unprecedented situation of COVID-19 pandemic. The authorities are also taking steps in view of the various notifications issued by the Union of India as well as the State of Maharashtra. The orders are issued of opening shops from 7.00 a.m. to 2.00 p.m. We may suggest the Corporation to explore the possibility of publishing the WhatsApp numbers of the shopkeepers in the notified/particular areas. This may facilitate the consumers in advance to place the orders for grocery articles or other articles of daily needs. This may facilitate the

shopkeepers to keep these orders ready, received well in advance, for delivery on the next date. This would save the time of consumers in selecting the articles and then getting the delivery of these articles at counter. The Aurangabad Municipal Corporation and the respondents-authorities may also explore the possibility of making grocery articles ready in one k.g. packet, two k.g. packet and five k.g. packet or likewise on deliberation with the traders association/the shop owners association. This may also facilitate the consumers to get these articles at the earliest as it may also save the time of shopkeepers in delivering these articles to consumers.

11. As stated above, the statement is made in the affidavit in reply filed on behalf of the Aurangabad Municipal Corporation that the Aurangabad Municipal Corporation has established 24 hours call centers and helplines to promote access to the needy citizens. The large publicity is given to the aforesaid helpline numbers. We may suggest that the Municipal Corporation may publish the details in respect of 24 hours call centers and helpline numbers periodically i.e. at least on weekly basis in two newspapers having wide circulation in regional language and one English daily newspaper. The Municipal corporation also to publish



the details of the 24 hours control rooms and the phone numbers/  
numbers of the appointed nodal officers.

12. We are aware of our limitations. We are also aware of the fact that this Court is not expected to take charge of the administration nor is expected to indulge in monitoring trade activities but for the peculiar circumstances, we are prompted to provide these suggestions. We hope and trust that the respondents-authorities would take our suggestions so as to meet this unprecedented situation more effectively and consumers friendly.

13. The petition is accordingly disposed of with the aforesaid suggestions.

**( SHRIKANT D. KULKARNI, J.) ( PRASANNA B. VARALE, J. )**

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