

Court No. - 68

Case :- PUBLIC INTEREST LITIGATION (PIL)
No. - 574 of 2020

Petitioner :- In-Re Inhuman Condition At
Quarantine Centres And For Providing Better
Treatment To Corona Positive

Respondent :- State of U.P.

Counsel for Petitioner :- Gaurav Kumar
Gaur,Rishu Mishra,S.P.S. Chauhan

Counsel for Respondent :- C.S.C.,Purnendu
Kumar Singh

Hon'ble Siddhartha Varma,J.

Hon'ble Ajit Kumar,J.

1. “दो गज की दूरी मास्क भी जरूरी” seems to be an empty shibboleth coined by the Government. Neither the Government is looking interested in implementing the rule that two individuals should remain two yards away and wear masks nor the people of our State are interested in following the above rule. Anyone who might venture out on the streets would find that the unlock-1, unlock-2 and unlock -3 have been misunderstood by the people of the State as a procedure by which they can now freely go about and mix with each other and do things the way they want. Every shop, be it a regular one or an encroached structure is surrounded by people without observing the rule of maintaining distance of two yards. Today

certain photographs have been brought on record by a well meaning lawyer Sri Ram Kaushik, and if one goes by them it becomes certain that unlock-1, 2 and 3 have been misunderstood by the people our State. The shops in the photographs also, it is evident, have either not been told that it was mandatory for them to maintain physical distancing outside their shops or they have chosen to flagrantly violate the principles of maintaining distance of two yards. Any shop which is selling anything would sell only one item at a time. If there are two sales person employed by a shopkeeper selling articles then definitely two articles can be sold at a given point of time, and, therefore, it appears that the shopkeepers will have to be told that crowding at their shop would be of no help and even may invite coercive measures against them. The police along with the District Administration will have to see that people who crowd at shops should queue up with a distance of two yards in between two individuals. It matters little that the queue goes to be a kilometer long. This physical distancing will be for the good of the shopkeepers and also for the good of the people who crowd at these shops.

2. Mr. S. D. Kautilya, learned Advocate has placed an affidavit before the Court and argued that Nagar Nigam had carried out robust activity in the recent past as per programme, to ensure that encroachments were removed. Though statistics placed before us appear to be quite impressive but on ground as learned Advocates appearing in these PILs have argued, the reality is otherwise. Thus we, prima facie, find that the Nagar Nigam Administration is not only proceeding at a snail's pace but it has mostly remained a passive spectator of the encroachment activities in various parts of the city, as one date. This is quite apparent from the photographs placed before us today by various lawyers. We must record that social distancing norms cannot be followed in letter and spirit if these unauthorized encroachers are permitted to carry out commercial activities in every nook and corner of the city. It is not only the duty of the Nagar Nigam to ensure that public places in the city are absolutely encroachment free but they have also to ensure that these places are not re-encroached. This they should have done by sending reminders to the concerned police administration. We do not find that any such action

has been taken by the Nagar Nigam in the affidavit.

3. If we look at the order sheets of the previous dates, it is evident that this Court had stressed on importance of testing, tracking and treatment of people affected by the CORONA VIRUS. However, the way the number of patients have increased, it appears, that efforts have not borne results.

4. If 25th March, 2020, is to be taken as the date when we felt the attack of the virus then from that time onwards four months have passed. The fact that now people are getting themselves treated in private hospitals rather than hospitals which were provided by the Government, shows that the treatment aspect has collapsed. The Government is coming up with various data to show that things are under its control but newspaper reports are not very encouraging. There are complaints that people, though have been tested for COVID-19 but have not yet received their reports even after a lapse of two or more weeks.

5. Mr. Goyal, learned Senior Counsel though has admitted that earlier there was an issue of backlog in respect of such reports but now things have got

improved and there is no issue of backlog.

6. We are neither satisfied nor convinced with the reply of Mr. Goyal in the absence of proper statistics placed before us on affidavit.

7. Let a proper affidavit be filed by the Chief Medical Officer before this Court in respect of the pending COVID-19 reports already tested and reports received and delivered date-wise from 20th July, 2020 till 5th August, 2020.

8. Besides the above, what appears necessary is that we have to see that every individual maintains a distance of two yards from one another and also wears a mask. This would probably have to be done till the time there is either a cure of the CORONA VIRUS or there is a vaccine for the general public. Other efforts, it appears, because of the might of the virus have been nullified.

9. Under such circumstances we issue the following directions:-

(i) The State Authorities to see vigorously that no two individuals in public remain within a distance of two yards from each other.

(ii) If any public place is found where people fail to maintain distance of two yards from

each other then the owner of the premises, where the violation of this Rule is found, should be brought to book and the premises should be closed down.

(iii) If it is brought to the notice of the administration in the higher echelon that policemen etc. are not enforcing rules of distancing then action should be taken against those policemen.

(iv) If there is crowding seen at O.P.D's of hospitals, Nursing Homes and Clinics which appear to be in violation of various principles laid down by the State Government then action must be taken against those hospitals, nursing homes and clinics.

(v) Various photographs have also been brought on record which show that persons who come to file their cases in Courts, are not maintaining physical distancing. They are such individuals who report a violation of law to the Courts, and therefore it is expected that they would at least maintain physical distancing. They should voluntarily exercise restraint and should not come close to each other. If within an hour of the starting of the

functioning judicial institutions, it is found that crowding is happening and physical distancing is not being maintained by individuals on whose shoulders the judicial institutions function then the Bar Association, the Registry of the Court and the District Administration should step in and see that proper physical distancing is maintained.

(vi) If the few photographs which have been filed today are to be believed then we expect that action has to be taken at an extremely fast speed. Under such circumstances, action shall be taken by tomorrow against such shopkeepers who encourage crowding outside their shops. Actions against the erring police personnel shall also be taken by tomorrow. We expect to find on record such official warning etc. which would have been given in between today and tomorrow.

(vii) The above exercise shall not only be undergone in Prayagraj but also shall be undertaken in all the districts of the State of U.P. Any information of violation of physical distancing, if is brought to our notice, might result in suo motu action being taken by us.

(viii) *The administration to remove all encroachments within the time limit as was provided to the Nagar Nigam by the Court at an earlier date.*

(ix) *As we find that the work of removal of the encroachments has been done in a most slipshod manner, let the Municipal Commissioner be present in the Court on the next date.*

(x) *The Administration to also see that no pillion riders except couple on two wheelers are seated unless there is an extreme urgency.*

10. Put up this case on 7.8.2020 at 10:00 AM.

11. The Registrar General is directed to communicate this order to the District Magistrates, the Senior Superintendents of Police/ Superintendents of Police of every district in the State of Uttar Pradesh for information and necessary compliance, within 12 hours.

Order Date :- 5.8.2020

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(Ajit Kumar,J.)..... (Siddhartha Varma,J.)