

IN THE HIGH COURT OF KARNATAKA, AT BANGALORE
(ORIGINAL JURISDICTION)

WRIT PETITION No. _____ /2020 (GM-RES-PIL)

BETWEEN

Smt. M. Indira Priyadharshini

.....Petitioner

AND

1. The State Government of Karnataka
 Represented by its Principal Secretary
 Vidhana Soudha
 Ambedkar Bheedi
 Bangalore-560001

2. The Department of Health and Family Welfare
 Represented by its Additional Chief Secretary
 No.105, 1st Floor
 Vikas Soundha
 Bengaluru-560001

3. The Commissioner of Police
 No.1, Infantry Road
 Bengaluru-560001

4. The Director and Inspector General of Police
 No.2, Nrupatunga Road
 Bangalore- 560 001

....Respondents

MEMORANDUM OF WRIT PETITION UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA

The Petitioner in the above case humbly begs to submit as follows:

1. That the address of the petitioner for the purpose of service of summons, notice or process from this Hon'ble Court may kindly be served to the address as mentioned in the above cause title and

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the address for the aforementioned purpose may be served to the respondent at the address stated in the above cause title.

2. The petitioner is appearing as party-in-person in the above case and that the petitioner has filed this writ petition by way of public interest litigation and that the petitioner has no private interest or personal motive and personal gain in filing this instant petition.

3. This writ petition is preferred seeking prayer in the nature of certiorarified mandamus, thereby quashing clause 1 of the guidelines/SOP bearing No. SOP 4/IST/2 dated 08.06.2020, issued by the Respondent No.2 as per ANNEXURE-'C' and Clause 5 of the order bearing No. RD 158 TNR 2020, dated 30.07.2020 issued by the Respondent no.1 as per ANNEXURE 'B' and further directing to the Respondent No.1 to 4 to open the Inter-state Border Check-Post and to allow the free movement of the people living in the villages belonging to Hosur, and Anekal Taluks, who are dependent upon the livelihood within the border of Karnataka and Tamil Nadu.

FACTS OF THE CASE

4. On 30th January 2020, the World Health Organization had declared the outbreak of COVID-19 as global health emergency. In order to control the spread of this pandemic, the Ministry of Home affairs, Government of India (hereinafter referred as MHA) issued a notification dated 24.03.2020, declaring national lockdown for a period of 21 days along with certain guidelines of measures to be taken by the State Governments and the public at large during such lockdown and further extended the lockdown periodically

depending upon the surge of Corona cases and its impact in the nation.

5. In an effort to control spread of COVID-19, the MHA passed many Notifications/Orders and issued various guidelines i.e. UNLOCK-1, UNLOCK 2, based on the situation in the country and accordingly the State Governments were also given the powers to pass such Orders/Circulars/Notifications and guidelines, as deemed necessary, considering their State of Affairs. The MHA in UNLOCK 2 guidelines had clearly stated that there shall be no restriction on inter-state movement of persons and goods and no such permissions/ E-pass are required for such movement, inspite of the same the Respondent No.1 failed to implement the said Order. On 29.07.2020 the MHA passed an Order, thereby issuing guidelines for UNLOCK-3 to re-open certain activities in areas outside the containment zones *inter-alia* permitting the inter-state and intrastate movement of persons and goods without any restrictions. Copy of the order dated 29.07.2020, along with the guidelines for UNLOCK 3 is produced herewith as ANNEXURE- 'A'.

6. Further based on such guidelines issued by the MHA, the Respondent No.1 passed an Order bearing No. RD 158 TNR 2020 dated 30.07.2020 thereby permitting the inter-state and intrastate movement of persons and goods without obtaining any separate permission/approval/e-permit for such movement, provided that any person coming to State of Karnataka from any other State shall strictly follow the prevailing guidelines/Standard Operating Procedure (SOP) issued by the Respondent No.2. Copy of Order

bearing No. RD 158 TNR 2020 dated 30.07.2020 passed by Respondent No.1 is herewith produced as ANNEXURE- 'B'.

7. The Respondent No.2 had previously issued guidelines/SOP bearing No. SOP 4/IST/2 on 08.06.2020, which is the prevailing guidelines, thereby stating the conditions and quarantine norms for inter-state travelers and for the persons travelling to the State of Karnataka. Copy of the guideline/SOP dated 08.06.2020 issued by the Respondent No.2 is herewith produced as ANNEXURE-'C'. Thereafter the Respondent No.1 has modified the SOP dated 08.06.2020 on 15.06.2020, 26.06.2020 and on 06.07.2020, thereby revising only the quarantine norms and making no changes to any other conditions. Copy of the Orders dated 15.06.2020, 26.06.2020 and 06.07.2020 is herewith produced as ANNEXURE-'D', ANNEXURE- 'E' & ANNEXURE-'F'.

8. According to the prevailing guidelines/SOP dated 08.06.2020, the Respondent No.1 has provided an online website named as *Seva-Sindhu portal*, for mandatory registration of the persons travelling to State of Karnataka, from other states. Wherein Clause 1 of the SOP states as follows:

1) Mandatory Self- Registration on Seva- Sindhu Portal by all travellers before entering Karnataka

a. Name, Address, Mobile Number & other information to be provided

b. No approval required

c. Use of same Mobile number for multiple registrations is not allowed except in the case of a family.

d. Business visitors to give details (name, mobile and address of persons in Karnataka they intend to meet) and date of return

e. Transit traveller to provide address in destination state and indicate exit check post from Karnataka

The above clause is stipulated certainly to obtain prior permission from the Respondent No.1 by way of E-pass for entering to the State of Karnataka, wherein such E-pass shall be generated upon furnishing the correct information of the person travelling and uploading the Identity card issued from the work place. Further this portal also provides E-Pass for daily travelers for a period of one month, who shall be exempted from quarantine and Covid test as per the Guidelines/SOP issued by the Respondent No.2. Copy of the home page and the second page of *seva-sindhu* portal are produced herewith as **ANNEXURE-'G'**.

9. The inter-state border of Karnataka and Tamil Nadu is surrounded by many villages falling under Hosur and Anekal Taluks (hereinafter referred as Taluks) having several residents who have to regularly travel across the borders to earn bread and butter to feed their families by working in Organized i.e. Commercial Establishment/Companies Garment companies, Small Scale Industries, Manufacturing Units, Construction companies, IT-BT Companies, and Unorganized sectors i.e. daily-wage laborers, Masins, Farm labours working in the Fields, Maids, Hotels, and people working in or having small shops/petty shops/stores or Hotels, Small Business, etc. situated in towns such as Attibele, Chandapura, Bommsandra, Jigani, Electronic City, etc. under Anekal Taluk within the State of Karnataka, and under

villages such as SIPCOT-2, SIPCOT-2, SIDCO, Zuzuwadi, Begapalli, Mathigiri, Hosur town, etc. under the Hosur Taluk, within State of Tamil Nadu, wherein the livelihood of the people residing in these Taluks, within a distance of 25 kms of radius across the borders, are primarily dependent on work in the aforementioned sectors, and hence it becomes mandatory for the people to cross the border on daily basis. Copy of the map showing the geographical location of the Villages under these Taluks across the Inter-state borders is herewith produced as ANNEXURE- 'H'. The Yellow mark of on the map shows the inter-state border across the State of Karnataka and Tamil Nadu and also the Taluks of Anekal and Hosur.

10. That the people residing in these Taluks either have their residence or place of work on either sides of the borders, based on their convenience, and travelling across the border becomes their daily routine and it is very much necessary as their work is based on such daily travel, which is the only source of income for their livelihood. Whereas such being the case the people transiting to the State of Karnataka on daily basis, especially for people working in unorganized sectors, cannot be insisted to strictly follow the guidelines/SOP dated 08.06.2020 as issued by the Respondent No.2 and to mandatorily get registered on *Seva-Sindhu portal* as they cannot furnish the Identity card for obtaining E-pass as required by the Respondent No.1, thereby resulting to non-issuance of E-Pass, consequently restraining their movement on daily-basis, across the borders for their work and livelihood, merely for the reason that he or she doesn't possess a valid E-pass.

11. Considering the hardship suffered by the daily commuters across the inter-state borders, the residents of Hosur Taluk had made a representation dated 29.06.2020 to the member of legislative Assembly requesting for the ingress and egress of the daily commuters across the inter-state borders. Copy of the representation dated 29.06.2020 is herewith produced as **ANNEXURE- 'J'**.

12. Since Bengaluru being the nearest Metropolitan city, having proximity for many essential services such as Multi-specialty Hospitals and Educational Institutions including Private Schools/Government Schools with Kannada medium, people across the border prefer coming to the State of Karnataka to avail such essential services and the Order dated 30.07.2020 passed by the Respondent No.1 and guidelines/SOP dated 08.06.2020 issued by the Respondent No.2 has restricted the movement of the people including teachers residing around the borders without such E-pass.

13. The conditions stated in Clause 1 of the guidelines/SOP dated 08.06.2020 issued by Respondent No.2 for issuance of E-Pass and clause 5 of the Order dated 30.07.2020 passed by the Respondent No.1 stating to strictly follow such guidelines/SOP as issued by the Respondent No.2, for the people entering to the State of Karnataka, amounts to complete cessation of the movement of the people on daily basis, especially for people working in unorganized sector, belonging to these Taluks, having either their residence or place of business on either side of the borders, though they are situated to the nearest proximity of 25 km radius from the

inter-state border, whose daily means are dependent on travel across the borders. The photographs of the inter-state border check post are herein produced as ANNEXURE-'K', and the videography of the same shall be produced with the leave of this Hon'ble Court.

14. Now as that the Respondent No.1, has declared to lift the lockdown throughout the State of Karnataka except for the containment zones, thereby opening all the sectors of work, including organized and unorganized work, and as there is no lockdown in the villages falling under the abovementioned Taluks, the Respondent No.3 and 4, restraining the movement of the people across the inter-state borders, except for people having the E-Pass as issued on *Seva-sindhu portal*, is pointless, instead it has caused irreparable loss for daily commuters especially working in unorganized sectors.

15. As the citizens are unaware about the end of this Pandemic and it is unlikely to end in the near future, it has become just and necessary to have free transit for people living in the above mentioned Taluks across the inter-state borders, irrespective of the conditions imposed under Clause 1 of the guidelines/SOP dated 08.06.2020 issued by the Respondent No.2 and Clause 5 of the Order dated 30.07.2020 issued by the Respondent No.1 for the purpose to keep their livelihood alive for many lives families and their dependents.

16. In the given circumstance, the petitioner having no other alternative or efficacious or statutory remedy available is thus constrained to approach this Hon'ble Court for the reliefs, under

Article 226 and 227 of the Constitution of India, on the following grounds.

17. It is submitted that the petitioner has not preferred any other legal action in relation to any of the matters herein, nor has filed any other petition and no other proceedings are pending before this Hon'ble Court or any other court having competent jurisdiction in respect of the same subject matter and cause of action.

GROUNDS

18. Clause 1 of the guidelines/SOP bearing No. SOP 4/IST/2 dated 08.06.2020 issued by the Respondent No.2, for mandatory registration of people for entering to the State of Karnataka, and Clause 5 of the Order bearing No. RD 158 TNR 2020 dated 30.07.2020 passed by the Respondent No.1, insisting for strict compliance of the guidelines/SOP dated 08.06.2020 as issued by the Respondent No.2, is illegal and unsustainable and the same is liable to be quashed.

19. The notification dated 29.07.2020 issued by the Ministry of Home Affairs, manifestly states that there shall no restriction for the inter-state and intra-state movement of the people and goods and no special pass/ permission is required for the same. The Clause 5 of guideline states as follows;

"5. States/UTs, based on their assessment of the situation. May prohibit certain activities outside the containment zones, or impose such restrictions as deemed necessary.

However, there shall be no restriction on inter-state and intra-state movement of persons and goods including those for cross land borders trade under treaties with neighboring countries. No separate permission/approval/e-permit will be required for such movements.

On bare perusal of the abovementioned guideline, it certainly states that there shall be no restriction for the inter-state movement of the people and goods in any manner and no such special permissions/approvals or pass are required for such inter-state movement but the Clause 1 of the guidelines/SOP dated 08.06.2020, issued by the Respondent No.2 making the registration mandatory for the people entering the State of Karnataka, on seva-sindhu portal seeking prior permission/approval from the Respondent No.1 by way of E-pass and Clause 5 of the Order bearing RD 158 TNR 2020 dated 30.07.2020, passed by the Respondent No.1, insisting such people to strictly follow the guidelines/SOP dated 08.06.2020, as issued by the Respondent No.2 is in complete violation of the guidelines issued by the MHA consequently is violating the freedom of movement within territory of India and freedom of trade, business, profession entrusted under Article 19(1)(d) and 19(1)(g), and Article 21 the right to livelihood and personal liberty guaranteed under of the Constitution of India. Hence Clause 1 of the guidelines/SOP dated 08.06.2020, issued by the Respondent No.2 and Clause 5 of the Order dated 30.06.2020 passed by the Respondent No.1 is liable to be quashed.

20. The guidelines dated 08.06.2020 issued by the Respondent No.2, thereby imposing a condition to obtain E-pass by

mandatorily registering on *Seva-sindhu portal*, for all person entering the State of Karnataka is in violation of fundamental rights as such E-Pass shall be generated only after uploading the Identity card issued from the work place, which can be furnished by the people working in Organized Sectors, and not by the people in unorganized sectors. Therefore such condition stipulated in the guideline/SOP dated 08.06.2020, issued by the Respondent No.2 is depriving the rights of movement across the inter-state border.

21. The guidelines/SOP dated 08.06.2020 issued by the Respondent No.2, and the Order dated 30.07.2020, passed by the Respondent No.1, imposing unreasonable conditions for the inter-state movement of the people even after change in circumstances, has grossly affected the lives of many families, and their dependents living in the Hosur, and Ankal Taluks, resulting to deprivation of livelihood of the people across the inter-state borders, whose lives are dependent on such travel across the inter-state borders on daily basis.

22. The respondent No.1 and 2 have failed to take in to account the problems faced by people living in these Taluks across the inter-state borders, whose livelihood is dependent on the activities held up in both the States of Karnataka and Tamil Nadu. Such abrupt action of the Respondent No.1 and 2 has resulted to uncertainty and chaos for people living in these Taluks who are dependent on the travel across the borders and thus led to adverse impact to their dependents.

23. Now that the lockdown is lifted in the State of Karnataka except for containment zones and as there is no lockdown in the

Anekal and Hosur Taluk, the people across the inter-state borders in the above mentioned Taluks, shall not be deprived of their fundamental rights entrusted under the Constitution of India, as their daily activities and daily routine are dependent on travel across the said inter-state borders.

24. It is submitted that any other grounds that may be urged at the time of hearing of the petition with the leave of this Hon'ble Court.

GROUNDS FOR INTERIM PRAYER

It is submitted that the free movement of the people belonging Hosur, and Anekal Taluks, across the inter-state borders have been restrained and their daily livelihood have been affected by the actions of the Respondent No.1 to 4, since the residents have to travel through this inter-state border on daily basis. It is further submitted that if the interim order is not granted the same will cause serious hardship and trouble to the people belonging to these villages under the aforementioned Taluks.

PRAYER

Wherefore, the Petitioner humbly prays that this Hon'ble Court may be pleased to

- i) Issue writ, order or directions in the nature of Certiorari, thereby quashing Clause 1 of the guidelines/SOP dated 08.06.2020 issued by the Respondent No.2 as per ANNEXURE-'C'
- ii) Issue writ, order or directions in the nature of Certiorari, thereby quashing Clause 5 of the order bearing No. RD 158 TNR 2020, dated 30.07.2020 issued by the Respondent No.1 as per ANNEXURE-'B' and

- iii) Issue writ, order or directions in the nature of mandamus directing the Respondent No.1 to 4, to allow free movement of the people living in the villages belonging to Hosur, and Anekal Taluks, across the inter-state border and
- iv) Issue any other writ, order or directions which deems fit in the circumstances of the case in the interest of justice and equity.

INTERIM PRAYER

Pending, hearing and disposal of this writ petition it is humbly prayed that this Hon'ble Court may be pleased to grant an interim order thereby directing the Respondent No.1 and 4 to permit the free movement of the people belonging to Hosur, and Anekal Taluks, in the interest of justice and equity.

Bengaluru
04.08.2020

PARTY-IN-PERSON
(M.INDIRA PRIYADHARSHINI)